

BULKY DOCUMENTS

(exceeds 300 pages)

Proceeding/Serial No: 91165809

Filed: 8.31.06

Title: Triforst Enterprises Inc. vs.

Nalge Nunc International Corporation

Deleware Corp.

Part 1 **of** 2

CALIFORNIA
DEPOSITION REPORTERS

When Every Word Counts...

TTAB

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**TRIFOREST ENTERPRISES,
INC.,**

OPPOSER,

vs.

**NALGE NUNC INTERNATIONAL
CORPORATIONA DELEWARE CORP.**

APPLICANT.

08-31-2006

U.S. Patent & TMO/TM Mail Rec'd Dt: #1:

OPPOSITION NO. 91165809

SERIAL NO. 76572253

DEPOSITION OF : STEVEN LIN
TAKEN BY : CLEMENT CHENG, ESQUIRE
Commencing : 8:50 A.M.
Location : 17220 NEWHOPE STREET, SUITE 127
FOUNTAIN VALLEY, CALIFORNIA 92708
Day, Date : WEDNESDAY, JULY 26, 2006
Reported by : MARGARET A. FORD, C.S.R. NO. 10530
Pursuant to : NOTICE
Original to : CLEMENT CHENG, ESQUIRE

Pages 1 - 167
Job No. 101055

ORIGINAL

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ALSO PRESENT: MR. SYED REHAN

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EXHIBITS

OPPOSER'S EXHIBIT NO.	DESCRIPTION	MARKED FOR IDENTIFICATION
1	NALGENE BOTTLE	06
2	U.S. PATENT	10
3	U.S. PATENT	11
4	U.S. PATENT	13
5	U.S. PATENT	15
6	U.S. PATENT	16
7	DRAWING PAGE	17
8	DRAWING PAGE	25
9	DRAWING PAGE	25
10	LAURIA-BERTANI BOTTLE	27
11	TRIFOREST LAB BOTTLE	30
12	TIMBERLAND BOTTLE	31

APPLICANT'S EXHIBIT NO.	DESCRIPTION	MARKED FOR IDENTIFICATION
13	WHEATON CATALOG	
14	COLE-PARMER CATALOG	
15	EXAMPLE OF TETHER CAP	
16	BOSTON ROUND BOTTLES	
	DRAWING PAGE	

1 17 JUNE 29, '04 LETTER TO
2 MS. RIEMANN
3 18 OPPOSER, TRIFOREST,
4 RESPONSE TO APPLICANT'S
5 FIRST SET OF INTERROGATORIES
6 19 TRIFOREST BOTTLE
7 20 TRIFOREST BOTTLES
8 21 OPPOSER, TRIFOREST, RESPONSE
9 TO APPLICANT'S FIRST SET OF
10 REQUESTS FOR ADMISSIONS
11 22 BROCHURE 5190
12 23 BROCHURE 5081
13 24 BROCHURE 5196
14 25 DECLARATION OF STEVE LIN
15 26 BOMATIC CATALOG
16 27 MAYFAIR CATALOG
17 28 BROUCHURE 5177
18 29 BIG PROMOTIONS WEB PAGE
19 30 THE KAYAK CENTRE WEBPAGE
20 31 PHOTOCOPY OF BOTTLE
21 32 PHOTOCOPIES OF BOTTLES
22 33 PHOTOCOPY OF AMERICAN
23 ALPINE CLUB BOTTLE
24 34 PHOTOCOPY OF LEXAN BOTTLES
25 35 PHOTOCOPY OF BOTTLE
36 36 PHOTOCOPY OF BOTTLE
37 37 PHOTOGRAPHS
38 38 PHOTOGRAPHS
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40 40 PHOTOGRAPHS
41 41 PHOTOGRAPHS
42 42 PHOTOGRAPHS
43 43 PHOTOGRAPHS
44 44 PHOTOGRAPHS
45 45 PHOTOGRAPHS

(The physical product of Exhibit 32
was retained by Mr. Cheng.)

1 FOUNTAIN VALLEY, CALIFORNIA, WEDNESDAY, JULY 26, 2006

2 8:50 A.M.

3 -000-

4
5 STEVEN LIN,
6 the witness herein, after having been duly sworn, was
7 deposed and testified as follows:

8
9 DIRECT EXAMINATION

10 BY MR. CHENG:

11 Q Why don't you introduce yourself? What's your
12 name?

13 A Okay. My name is Steve. I'm the president of
14 TriForest Enterprise, and TriForest Enterprise is the
15 bottle company. We make all the container for anything
16 for laboratory packaging and outdoor activity and
17 any -- any place we can sell the bottle for.

18 Q And how long have you been in the bottle
19 business?

20 A Since 2001.

21 Q And have you been making polycarbonate bottles
22 since then?

23 A Yes.

24 Q In the laboratory market, how long have you
25 been selling in the laboratory market?

1 A Since -- since 2001.

2 Q And how long have you been selling in the
3 outdoor market?

4 A I think it's since 2003.

5 Q Okay. Are you familiar with the Nalgene
6 bottle --

7 A Yes.

8 Q -- that's in Exhibit 1?

9 I'll show Exhibit 1, which is also Exhibit 1 of
10 the Motion for Summary Judgement.

11 (Opposer's Exhibit 1 was marked for
12 identification by the court reporter
13 and is attached hereto.)

14 THE WITNESS: Yes.

15 Q BY MR. CHENG: And does that photograph
16 accurately depict the bottles?

17 A Yes.

18 MR. SCHATZ: Excuse me. Do you have copies for
19 everybody?

20 MR. CHENG: Oh, yeah, let me run this off right
21 now.

22 MR. SCHATZ: Well, do you have a lot of
23 exhibits to go through?

24 MR. CHENG: No, I only have 13, nothing at all.

25 MR. SCHATZ: Don't worry about the copies for

1 now. I just may want to look at the exhibit while we're
2 discussing it.

3 MR. CHENG: Okay. Or maybe we should run one
4 off and you can have it to look at it.

5 MR. SCHATZ: I would appreciate at that.

6 (A brief recess was taken.)

7 Q BY MR. CHENG: All right. So have you seen the
8 Nalgene bottle before?

9 A Yes, I have, yes.

10 Q And so tell me about the Nalgene bottle.

11 A Actually, Nalgene is the company in the
12 laboratory business for many decades, and it's a well
13 known name. They make the laboratory bottle primarily
14 for the -- polycarbonate bottle for laboratory for
15 autoclavable bottle.

16 And in -- in the past, people, the scientists
17 in the laboratory -- or some of the scientists in the
18 laboratory, also the outdoor hiker, and they use the same
19 bottle for drinking the water. And some people may
20 suggest Nalgene to add a tether cap to the Nalgene Boston
21 round bottle, and that's come -- become the one they want
22 to trademark today. But my opinion is that the Boston
23 round bottle has exist in the market for almost a
24 dec- -- a century, and it should not be trademarked to
25 anyone by adding tether cap.

1 Q Was the Nalgene bottle originally without the
2 tether cap?

3 A Yes, in the laboratory, they sell the same
4 bottle without the tether cap. And by adding the tether
5 cap, they sell in the outdoor market, and this is the one
6 they want to trademark today. And it's actually the
7 simple Boston round bottle with tether.

8 Q But this tether has a button.

9 Isn't that button kind of special?

10 A No, actually, the -- the original cap is
11 without a tether, and they have to add a button to
12 con- -- interconnect to the tether. And this is the
13 cheapest way to make the tether attach to the cap without
14 making a new mold.

15 Q How do you get the button onto the cap without
16 making a new mold?

17 A Just simply ultrasonic welding.

18 Q Oh, okay. Then are there other ways of doing
19 that?

20 A There are -- there are other ways but they have
21 to make a new mold for.

22 Q Oh, I see.

23 Does it cost more if you have to make a new
24 mold?

25 A Of course.

1 Q Why is there a ring connection at the top?

2 A This -- the ring connection allow the tether to
3 rotate without interference when they open or tighten the
4 cap.

5 Q And why is there a ring connection at the
6 bottom?

7 A The same -- same feature, it actually rotate.
8 And actually with this ring right here (indicating),
9 it -- it's actually prevent it come off on the bottle
10 itself.

11 Q What's the function of the neck ring?

12 A This -- this one (indicating) in the laboratory
13 bottle, this is the ring for shrink -- shrink wrap.
14 Okay. And in the outdoor market with this tether, it's
15 actually prevent this ring coming off from the bottle
16 itself. So there are two features, and the tether itself
17 has -- also, people can hand carry it and also hook up to
18 a carabiner and people doesn't need to carry it. A
19 carabiner can hook up to a backpack or on the belt.

20 Q All right. With regard to the hand grip, isn't
21 your hand grip different than their hand grip?

22 A Yeah, we -- our -- our grip is actually not as
23 fine as Nalgene. Nalgene has the thinner grip, and it's
24 easier to open and tighten without hurting the finger.
25 If you do it, like, a hundred times, it's actually very

1 smooth. And ours is a little bit bigger, and it's not as
2 easy to open and close. And after many times of tighten
3 it, the people's finger got hurt, actually. So this thin
4 grip, is actually a grip here, it's -- it's better
5 function.

6 Q Does the ergonomic grip cost more to make than
7 the TriForest grip?

8 MR. SCHATZ: Objection to the form of the use,
9 ergonomic.

10 Q BY MR. CHENG: Does the Nalgene grip have a
11 better grip than --

12 A Yes, yes.

13 Q -- the TriForest grip?

14 A Yes, they are.

15 Q All right. Let me show you an Exhibit 2, which
16 is Exhibit 2 of the Motion for Summary Judgement.

17 (Opposer's Exhibit 2 was marked for
18 identification by the court reporter
19 and is attached hereto.)

20 Q BY MR. CHENG: Have you seen this exhibit
21 before?

22 A Yes, I have seen this patent. It's U.S. patent
23 of our tether cap.

24 Q And is this a true and accurate copy of that
25 patent?

1 A Yes, this is a true and -- true copy patent
2 with a tether cap with a button to connect to the cap.

3 Q And why do they have the tether?

4 A Just to prevent to lost the cap.

5 Q And why do they have the button?

6 A The same, it's allow the cap to rotate without
7 interference.

8 Q Okay. Well, let me show you Exhibit 3.

9 (Opposer's Exhibit 3 was marked for
10 identification by the court reporter
11 and is attached hereto.)

12 Q BY MR. CHENG: Have you seen this Exhibit 3
13 before?

14 A Yes, this is another patent of our tether cap
15 with a ring and the button.

16 Q Why do they have a tether in this case?

17 A It's also the same feature. They -- they do
18 just don't want to -- they just don't want to lose the
19 cap, so they have a tether attached to the cap. And in
20 the other end, they have a ring attached to the bottom.

21 Q This bottle, you call it a Boston round.

22 Is this a Boston round in Exhibit 3?

23 A Yes, this is a Boston round bottle with the
24 tether cap.

25 Q Why is it called Boston round?

1 A This is -- this term has been used in the
2 laboratory market for almost a century, like in early
3 19- -- 1900, and some company introduced this term. I
4 don't have a detail information, but Boston round term is
5 very common term for a cylindrical long shape of bottle
6 in the laboratory market.

7 Q And why was the bottle made cylindrical?

8 A In the laboratory there are many features. The
9 cylindrical bottle is the -- the strongest structure for
10 a bottle. And in the -- in the laboratory people use the
11 bottle to roll for culturing, and this is the simplest
12 way to mold the bottle in plastic.

13 Q The shoulder of the bottle, I notice that
14 that's round.

15 Why is the shoulder of the bottle round?

16 A Because the neck is narrower, so they have to
17 create a shorter interconnect to the -- the narrow mouth
18 and to the side wall. And it's a -- the rounded edge is
19 actually a stronger structure for a bottle like this.

20 Q You mean stronger than a rectangular?

21 A Yes, stronger than a rectangular.

22 Q Okay. Does it also hold more volume?

23 A Yes, actually, with the same material -- same
24 amount of material, one cylindrical bottle actually holds
25 more material, actually create more volume.

1 Q All right. Let me show you Exhibit 4.

2 (Opposer's Exhibit 4 was marked for
3 identification by the court reporter
4 and is attached hereto.)

5 Q BY MR. CHENG: Have you seen Exhibit 4 before?

6 A Yes, this is another patent of our tether cap
7 with a ring on -- in the bottom.

8 Q Is this a true and accurate copy of that
9 patent?

10 A Yes, it's true and accurate copy of the patent.

11 Q I notice that the button swivels on top, and
12 there's a swivel at the bottom.

13 Why do you need two swivels? Why can't you
14 just have one?

15 A If you need to rotate this ring freely, you
16 need to have two point, also doesn't direct connect to
17 the cap or direct connect to the bottom. So they
18 actually need a two ring for this tether to be able to
19 rotate. So by doing this (indicating), people can open
20 the cap with -- without interfere the tether.

21 Q Can it open with one hand?

22 A Yes, this is -- in the -- in the laboratory
23 people want to prevent contamination of the cap. So when
24 they -- when they try to open this, they
25 actually -- normally, they use the other hand to hold it

1 or has the tether cap to prevent the cap touch any
2 surface.

3 Q Well, that's an interesting grip.

4 Why don't you describe to us that grip that
5 you're using?

6 A Grip?

7 Q Yeah.

8 Why do you hold the bottle that way?

9 A Okay. This is -- when -- when people open the
10 bottle with the tether cap like this (indicating), they
11 can actually fix the cap in the air without touching
12 anything. So this pre- -- so the other hand can do
13 anything they want, but this cap will not get
14 contaminated.

15 Q So when you open up the cap, does the tether
16 hang freely?

17 A Yes, they are freely without touching anything.

18 Q I notice that you hold onto the tether.

19 Is it necessary to hold onto the tether?

20 A No, it's just prevent rotate to this
21 (indicating). Actually, if you hold the tether, the cap
22 will not drop down and touch any surface. It's better to
23 hold the tether.

24 Q Oh, to prevent the cap from rotating?

25 A Right.

1 Q I see.

2 So can you make a shorter tether than that?

3 A If it's too short, you are unable to open it.

4 Let me show you. If it's shorter like this, you can't
5 even open it (indicating).

6 Q Can you make it longer than that?

7 A You can actually make it longer than that, but
8 when you open it, this already touch the table. You
9 don't want to do that.

10 Q I see.

11 A You want just the length of this.

12 MR. CHENG: I'll go on to the next exhibit.

13 (Opposer's Exhibit 5 was marked for
14 identification by the court reporter
15 and is attached hereto.)

16 Q BY MR. CHENG: Have you seen the Listerine
17 bottle in Exhibit 5 before?

18 A Yes.

19 Q And is this a true and accurate copy of the
20 registration?

21 A Yes, it's a trademark of Listerine.

22 Q And if you look at that bottle, what's special
23 about that bottle?

24 A Okay. Actually, it's very special. It's the
25 beveled edge and weight is in the center, and it's kind

1 of diamond-cut effect of the bevel edge so people can
2 recognize it very easily.

3 Q But does it hold more liquid because of the
4 beveled edges?

5 A No, the beveled edge and the rest actually
6 holds less liquid than -- than a long cylindrical bottle
7 or a typical square bottle. And this is a unique design
8 of this bottle.

9 Q Does the beveled edge make it stronger?

10 A No, actually it make it weaker.

11 Q Why does it make it weaker?

12 A Because the cylindrical bottle is the strongest
13 bottle, the strongest structure. But with the beveled
14 edge or square bottle, you actually can squeeze them very
15 easy. With the cylindrical bottle, it's not easy
16 to -- to squeeze.

17 Q Now, let me show you Exhibit 6.

18 (Opposer's Exhibit 6 was marked for
19 identification by the court reporter
20 and is attached hereto.)

21 Q BY MR. CHENG: Have you seen Exhibit 6 before?

22 A Yes.

23 Q And is that a true and accurate copy of the
24 trademark?

25 A Yes, that's a trademark of Chanel.

1 Q And have you seen that bottle before?

2 A Yes, I did.

3 Q And what's so special about the Chanel bottle?

4 A Okay. It's a very special cap with the
5 crystal-cut kind of design and the beveled edge on
6 the -- on the bottle itself.

7 Q And do the beveled edges have any
8 functionality?

9 A I -- I don't think so. It just create a
10 different look.

11 Q Does the beveled edges make it stronger?

12 A No.

13 Q Does it allow it to hold more liquid?

14 A No, actually not.

15 Q All right. Well, let me show you Exhibit 7.

16 (Opposer's Exhibit 7 was marked for
17 identification by the court reporter
18 and is attached hereto.)

19 Q BY MR. CHENG: Have you seen this before?

20 A Yes.

21 Q And is this a true and accurate copy of the
22 drawing page?

23 A Yes, they are.

24 Q Just for the record, could you read the mark
25 description?

1 A Okay. This is a Nalgene's application,
2 trademark application, for the plastic water bottle sold
3 empty and the mark. "The mark consists of a plastic
4 water bottle as shown; namely, a plastic water bottle
5 having a transparent generally cylindrical container body
6 with rounded shoulder interconnecting the upper and the
7 lower extremities of this cylindrical sidewall to a
8 relatively narrow container neck and a general thread
9 circular container bottom, respectively, an opaque screw
10 cap releasable engage with thread on the upper portion of
11 the neck and having a button connect to the center of its
12 top surface with a short stem and a strap terminating in
13 small and large annular ring, respectively, encircling
14 the bottom stem and the lower portion of the neck such
15 that the large annular ring is spaced apart and visually
16 distinct from the screw cap.

17 "Wherein the ratio of the diameter of the
18 general cylindrical container body to the overall height
19 of the water bottle is approximately .4. And the ratio
20 of the height of the general cylindrical container body
21 extending between the neck and the container button to
22 the overall height of the water bottle is approximately
23 .8."

24 Q Okay. I notice in the mark description that
25 you said it's made out of plastic.

1 Why is plastic a good material?

2 A It's -- plastic is the -- the most common
3 material for making a container nowadays. And many
4 people use glass in the past, but glass is breakable.
5 It's -- it's not safe in the laboratory, and many -- many
6 people change to plastic. And plastic is durable and
7 more chemical inured for the bottle we are making. So
8 plastic is the -- probably the best solution nowadays for
9 making a container.

10 Q For laboratory bottles, when did this switch
11 occur from glass to plastic?

12 A This is been many decades back to 1970.
13 Something -- some people start making the plastic bottle
14 with the Boston round shape to replace the glass bottle.

15 Q And was the glass bottle a Boston round shape?

16 A Yes, most of the glass bottle in the laboratory
17 was Boston round shape.

18 Q And the mark description also says it's
19 transparent.

20 What's the benefit of that?

21 A The transparent allow user to see through
22 what's happening in the liquid. Especially, people use
23 culture media. The scientist want to see what's
24 grow -- what the growth inside the bottle, so it has to
25 be transparent. And also, let's -- let's say we use the

1 bottle for other purpose, people want to see what's the
2 color they actually drinking. The transparent actually
3 bring a lot of advantage for a bottle.

4 Q Oh, okay. And why does it have to be generally
5 cylindrical?

6 A In the laboratory market, as I say, people use
7 the bottle for rolling, for culturing purpose. And when
8 people actually mass produce a media like this, they need
9 to apply the label. The roller labels applicator
10 actually only can be used in the Boston round bottle.
11 And also when people try to screen print the bottle, they
12 use the roller screen print.

13 It has to be able to roll. That's why it's
14 cylindrical, and the cylindrical shape is the most common
15 shape in the plastic molding. It's stronger than any
16 other shape. It's mold -- because it's -- the basic
17 shape of the bottle, it's actually make the bottle itself
18 more durable and host more liquid with same amount of
19 material.

20 Q The shoulder, can you print on the shoulder,
21 also?

22 A Yeah, with this (indicating), yes. People can
23 actually use the printer or put the label on the
24 shoulder.

25 Q Are there shoulder labels available in the

1 market?

2 A That, I don't know, but -- but it's possible.

3 Q You could print on it?

4 A Yeah, we can print on it.

5 Q Okay. And why are the shoulders rounded? Is
6 there a functionality for that?

7 A You mean this shoulder rounded (indicating)?
8 Excuse me. Can you repeat your question?

9 Q What's the advantage of rounded shoulders?

10 A This shoulder here (indicating)?

11 Q Yes.

12 A Okay. When -- when you mold the plastic, it
13 has to be smooth to open the mold. And with this taper,
14 the mold can be easily to open.

15 Q Oh, I see.

16 A And actually the rounded shoulder interconnect
17 with the neck. This is a small -- small sphere for the
18 user.

19 Q Oh, I noticed on the mark description that the
20 screw cap is opaque.

21 What's the functionality of that?

22 A Okay. The polycarbonate material for the clear
23 transparent plastic is actually very expensive. On the
24 opaque cap, cap is made of polypropylene. It's actually
25 very cheap material, and it's softer material to create a

1 leak-proof function for the cap. So the polypropylene is
2 not actually transparent. It's -- it's opaque. And
3 people can dye any color they want to create a different
4 color cap.

5 Q Well, why can't you use polycarbonate for the
6 cap?

7 A You can, but it's -- first, it's more
8 expensive. Second, polycarbonate is too hot, and it
9 doesn't soften enough to create a leak-proof function for
10 the cap. So it's not recommended.

11 Q Why can't you make a polycarbonate cap that
12 doesn't leak?

13 A Because it's very rigid, and the -- this seal
14 ring inside the cap actually need flexibility to become a
15 leak-proof function.

16 Q Oh, why can't you make polypropylene
17 transparent?

18 A Polypropylene itself is not transparent.

19 Q It's impossible to make it transparent like
20 polycarbonate?

21 A Today this -- all the -- most polypropylene is
22 not transparent. You can get a translucent polypropylene
23 like this (indicating), but not transparent.

24 Q Oh, okay. Why does the button have a stem on
25 it? What's the functionality of that?

1 A This stem?

2 Q Yes.

3 A This is actually a ultrasonic welding. It's a
4 device called "hone." They have to go into this to weld
5 this button to the cap.

6 Q It's called a what?

7 A I don't know how to spell it. It's called
8 "hone."

9 Q Hone, okay.

10 I've seen an ultrasonic molding before, but I
11 don't know if it's called hone. Maybe that's a brand.

12 Is that had a brand?

13 A No, it's a small adaptor device called "hone."
14 Actually, go into this (indicating) and actually weld the
15 button.

16 Q Let's see.

17 Why is there a large and small annular ring?
18 Why can't you use two rings of the same size for the
19 strap?

20 A If you use the same size of this, the ring
21 actually larger than the cap itself, the small ring for
22 the button, the small ring for this (indicating), and
23 this (indicating).

24 Q When you say "this," you're saying the bottom
25 ring is larger because it has -- why is the bottom ring

1 larger than the top?

2 A The bottom ring has to be larger than the neck
3 itself to be able to go into this -- this
4 bottle -- bottle neck. But the cap is actually smaller.
5 You don't -- it's impossible to create a ring bigger than
6 this and still attach to the cap.

7 Q Okay.

8 A So one should be larger. One should be
9 smaller.

10 Q Oh, on the mark description, it says that, "The
11 large annular ring is spaced apart and visually distinct
12 from the screw cap."

13 What's the functionality of that? Why is it
14 visually distinct?

15 A Where it say that?

16 Q In the mark description.

17 A It say space apart from the ring of the
18 cap -- of the ring because you need to get a space for
19 rotating.

20 Q Oh, okay. The last part of the mark
21 description talks about ratios of the container body.

22 Are these ratios normal ratios?

23 A Yes, they are the typical Boston round bottle
24 ratio, ratio of.

25 Q And what's the functionality of the ratios?

1 A It's the Exhibit 1 of that one (indicating).

2 Q Oh, okay.

3 (Opposer's Exhibit 8 was marked for
4 identification by the court reporter
5 and is attached hereto.)

6 Q BY MR. CHENG: Have you seen Exhibit 8 before?

7 A Yes, I do. This is the one from the neck of
8 the Boston round -- typical Boston round drawing.

9 Q And Exhibit 8 is a true and accurate copy?

10 A Yes, they are.

11 Q Okay. Are these ordinary ratios shown on the
12 Exhibit 8?

13 A Yes.

14 Q What company is this?

15 A Bomatic.

16 Q They make bottles?

17 A Yeah, they make Boston round bottles.

18 Q All right. Have you seen Exhibit 9 before?

19 A Yes, I did see this drawing before.

20 (Opposer's Exhibit 9 was marked for
21 identification by the court reporter
22 and is attached hereto.)

23 Q BY MR. CHENG: And is this a true and accurate
24 copy?

25 A This is another typical dimension of the Boston

1 round bottle.

2 Q Oh, but I asked you is this a true and accurate
3 copy of the --

4 A Yes, it's true and accurate copy.

5 Q And you pulled this off the net, too?

6 A Yes.

7 Q And are these ordinary ratios for Boston round
8 bottles?

9 A Yes, they are.

10 Q Is the TriForest bottle an ordinary ratio?

11 A Yes, we are -- we are using the same range of
12 the dimension on our bottle.

13 Q What about the Nalgene bottle? Is that an
14 ordinary ratio bottle, also?

15 A Yes, they are a typical Boston round bottle
16 ratio.

17 Q Why can't you make it a taller and skinnier
18 bottle?

19 A Yes, the Boston round bottle is the general
20 term for cylindrical bottle. There are many different
21 size for the Boston round bottle. Typical 500 ML is
22 about this ratio. One liter size is -- is about the
23 same, too, but the neck -- the ratio to the neck is
24 actually larger.

25 Q All right. I'm going to show you Exhibit 10.

1 (Opposer's Exhibit 10 was marked for
2 identification by the court reporter
3 and is attached hereto.)

4 Q BY MR. CHENG: If you look at the first page of
5 Exhibit 10, the one with the white cap, tell us, what is
6 that?

7 A It's a Nalgene bottle made for Boston round
8 shape for laboratory use.

9 Q And was this sold before the tether cap?

10 A Yes, originally, Nalgene make this bottle for
11 laboratory use only. But there are -- in 1992 they
12 actually add the tether cap and sell in the outdoor
13 market.

14 Q I notice that it's labeled Luria-Bertani Broth.
15 What is that exactly?

16 A It's a culture media, one type of culture
17 media, in the research market. And there are many type
18 of media or bottle for reagent made in this bottle, too.

19 Q Is that the normal type of product that's put
20 into the laboratory?

21 A Yeah, they are.

22 Q Okay.

23 A There are many different culture media put into
24 the Boston round bottle.

25 Q Take a look at the second page.

1 What is that?

2 A It's the same Boston round bottle, just
3 changing to a cap with a tether. And this is -- this is
4 a typical Boston round bottle with a tether cap. And
5 this is the same -- the same drawing that Nalgene trying
6 to get a trademark for, a Boston round bottle with the
7 tether.

8 Q Are these caps, on the first and second page,
9 are these for basically the same mold?

10 A Yes, they are from the same mold and with
11 ultrasonic button on the top interconnect to a tether to
12 make it a tether cap.

13 Q So is it possible to modify the bottle on the
14 first page to become the bottle on the second page?

15 A Yes, just by ultrasonic button on the top, so
16 it can connect to a tether.

17 Q Do you know when Nalgene started doing this?

18 A I don't have a detail information. But based
19 on the Internet, they start adding a tether in 1992.

20 Q Oh, okay. I notice that the tether is looped.
21 Why does it look like a loop?

22 A Okay. Normally, people carry a bottle like
23 this (indicating) with their finger. If this is not
24 rounded edge, it's going to hurt the finger. And this
25 create a bigger radius to protect the finger, user's

1 finger.

2 Q So is that why there is a larger diameter on
3 the edges?

4 A Yes.

5 Q So now people use it for hiking, you said?

6 A Yeah, people use for hiking and for water
7 storage. Even they take -- carry it to school, to
8 office. People use this to carry, or some hiker use
9 carabiner, connect to their backpack or the belt.

10 Q The strap, will it break if you connect it to a
11 carabiner?

12 A For many year use, yeah, it may break. I'm not
13 sure how -- how long it will break.

14 Q Oh, all right. So why did TriForest put a
15 tether cap on their lab bottle?

16 A Okay. Like I say earlier, many scientists,
17 they try to open the bottle with one hand and use the
18 other hand for some other operation. And they don't want
19 to lose the cap or have the cap placed on table to
20 get -- any chance to get contamination.

21 So we create this tether cap also for the lab
22 bottle people. Just hold onto this and pour the bottle
23 like this way (indicating), they can prevent the cap
24 getting contaminated. And the other -- with one-hand
25 operation, this tether cap really help for one-hand

1 operation. The scientist can do other thing in the other
2 hand.

3 Q Let me show you Exhibit 11.

4 (Opposer's Exhibit 11 was marked for
5 identification by the court reporter
6 and is attached hereto.)

7 Q BY MR. CHENG: Have you seen that bottle
8 before?

9 A Yes, this is our laboratory bottle.

10 Q And is this photograph a true and accurate
11 copy?

12 A Yes, it's our Boston -- Boston round bottle
13 with tether cap.

14 Q Do you sell laboratory bottles without the
15 tether caps?

16 A Yes, for some application, people doesn't need
17 a tether cap. We sell the bottle without tether cap,
18 just like the Nalgene Boston round. But in some special
19 application when people need to do a one-hand operation,
20 we add a tether cap on our laboratory Boston round
21 bottle.

22 Q All right. Oh, and with regard to Exhibit 11,
23 I forgot to ask you if these are true and accurate copies
24 of --

25 A Yes, they are.

1 Q -- the product? Okay.

2 And they accurately represent the product that
3 you were showing us today?

4 A Yes.

5 Q Okay. I'm going to show you Exhibit 12.

6 (Opposer's Exhibit 12 was marked for.
7 identification by the court reporter.
8 and is attached hereto.)

9 Q BY MR. CHENG: What is this --

10 A Okay.

11 Q -- a photograph of?

12 A This is another -- a narrow mouth cylindrical
13 bottle we create for our distributor.

14 Q I see.

15 A Our distributor's name is Stansport. They
16 actually sell to Timberland.

17 Q And what are the differences between this
18 bottle and the Nalgene mark?

19 A First of all, the shoulder of the bottle, we
20 add -- we actually create a new mold adding a grip to be
21 different than a regular Boston round bottle. And the
22 cap, we actually recreate a larger cap with a
23 larger -- larger stripe. So it actually covered the
24 bottom ring to make the bottle look a little bit
25 different than the regular Boston round bottle.

1 Q And why did you make these changes?

2 A It's -- our distributor request us to make
3 another bottle for their customer. And, actually, that's
4 back to 2003 or 2004 prior to Nalgene apply this
5 trademark application. They receive a threatening letter
6 from Nalgene to change the shape of the bottle, not using
7 the Boston round bottle. That's why we create another
8 mold for a different shape.

9 Q Do you remember the name of the attorney that
10 sent the cease and desist letter?

11 A Yeah, and her name was Denise Kramer.

12 Q And did the rib-end cap changes affect the
13 functionality of the Timberland bottle?

14 A Yes, the grip on the shoulder, actually, it's
15 harder to mold. When the mold open, it actually -- the
16 rib actually interfere with the metal going out from the
17 plastic, and we have to do a lot of trial and error to
18 make this -- this mold accurate. And to produce this
19 bottle, it actually -- we -- we experience higher failure
20 rate molding this bottle.

21 Q When you say "failure rate," what is failure
22 rate?

23 A When the mold cannot be successfully
24 eject -- when the plastic product cannot be successfully
25 eject from the mold, and we have -- we cannot sell the

1 product. We have to discard it. And we experience
2 higher failure rate in this bottle with the rib compared
3 to the regular cylindrical Boston round bottle.

4 And for use of point with this rib, it's really
5 hard to clean. And with this bigger -- bigger grip, it's
6 actually -- it's not easy to tighten and open up. And
7 actually, the customer, the end user, doesn't like it
8 compared to the regular Boston round bottle design.

9 Q The Nalgene grip, is that a better grip than
10 the Timberland grip?

11 A Yes, the Nalgene grip is a fine grip. It's a
12 grip here (indicating), and any cap you can find on this
13 table. And this is not (indicating) -- this is like it
14 slip a lot, slippery. It's not easy to grip.

15 Q I notice that the top of the button is also
16 different.

17 Is that a stylistic change, also?

18 A It's actually to match the design of the cap
19 from the bottom to the top.

20 Q Oh, I see.

21 A But this is just to make the design look a
22 little bit different.

23 Q Does this cap design use more plastic?

24 A Yes, they -- we use more plastic in this cap,
25 and it costs more.

1 Q This cap looks a lot larger.

2 Is it actually compatible with all of the other
3 caps?

4 A Yes, they are compatible, but we use more
5 plastic to have another housing outside of the cap. You
6 can see a two layer --

7 Q Oh, I see.

8 A -- in the cap.

9 Q Would that Stansport cap fit on the Nalgene
10 bottle?

11 A The Nalgene bottle and our bottle are using the
12 typical 38 -- 38-430 neck. It's pretty much industry
13 standard. And this cap fits on 38-430 -- any 38-430
14 neck, even the glass bottle.

15 Q Why don't you try it and tell me if it fits on
16 the Nalgene bottle?

17 A If it fit, it will also fit on the regular 38
18 by 430, the glass bottle.

19 Q Okay.

20 A Any 38-430 neck should be able to fit.

21 Q So does the cap cost more to produce than the
22 Nalgene cap?

23 A The regular Boston round style cap is actually
24 use less material than this cap (indicating).

25 Q You said that the ribs are hard to clean.

1 Is that on the outside or the inside of the
2 bottle?

3 A It's from the inside of the bottle when user
4 try to clean it or use dishwasher, this is -- actually,
5 stick a lot of material here (indicating). It's not easy
6 to clean. With the regular Boston round bottle, it's
7 actually smooth and it's easier to clean.

8 Q So you're saying --

9 A For us, this is -- it's really hard to
10 introduce this kind of bottle to a laboratory market.

11 Q Okay. Because of the --

12 A Rib.

13 Q -- the rib?

14 Why is it important to clean the inside of the
15 bottle?

16 A Because customer want to re-use it by
17 autoclaving it. And with this rib, they cannot clean it
18 a hundred percent, so they cannot reuse the bottle more
19 efficiently.

20 Q What's wrong if there are impurities in the
21 ribs?

22 A Say that again.

23 Q Forget that question. Let me think.

24 Why does there have to be grooves on the inside
25 of the surface at the bottom if there are ribs on the

1 outside?

2 A The mold is actually -- it's just like blowing
3 a balloon and your mold create this rib outside. The
4 plastic will fold inside like -- like a wave. The rib
5 will actually create inside as well. It's not only
6 outside. When you blow the air in to create this bottle,
7 when it expand, reach the metal with the rib, the whole
8 plastic create a wavy surface. So the rib is not only
9 outside. It's also inside.

10 Q All right.

11 MR. CHENG: I have no further questions.

12

13 CROSS-EXAMINATION

14 BY MR. SCHATZ:

15 Q Mr. Lin, my name is Brett Schatz. We met
16 before --

17 A We met before?

18 Q -- we started today.

19 A Uh-huh.

20 Q But just this morning for the first time. And
21 I represent Nalgene in this matter.

22 A Okay.

23 Q Can you give me a little bit of your background
24 since graduating high school?

25 A My personal background?

1 Q Please.

2 A Okay. I actually have
3 engineering -- mechanical engineering degree in Taiwan
4 for my undergraduate. My major was plastic molding. And
5 then I come into the United States. I have a MBA degree
6 in the general business.

7 Q When you graduated with your mechanical
8 engineering degree, did you work as an engineer in the
9 industry?

10 A Yes, I do.

11 Q Who did you work for?

12 A Actually, our factory -- this factory is owned
13 by my family, and I work in my -- in our factory before
14 as a mold designer.

15 Q Okay. And where was that factory located?

16 A In Taiwan.

17 Q And what was made at that factory?

18 A Plastic parts, container.

19 Q What types of plastic parts?

20 A It's more like biomedical or laboratory. We do
21 a little bit consumer product as well, but our major
22 product is the laboratory product.

23 Q What laboratory products did you make?

24 A We make some vile. We make some testing kit
25 for allergy. We make some, what they call, like a

1 testing tube. We make bottles. We make flasks. We make
2 centrifuge wear. That's about it.

3 Q And how long did you work there at your
4 family's business in Taiwan?

5 A I worked as an intern while I was in college
6 and like on and off for four years.

7 Q Was this like an internship while you were in
8 school?

9 A Right. Because my major was plastic molding as
10 well.

11 Q What was the name of the company?

12 A The name of our company, TriForest.

13 Q In Taiwan?

14 A In Taiwan, it's TriForest. Chinese name is
15 Samson. It's TriForest Taiwan.

16 Q And did you work at the Taiwan plant after you
17 graduated with your mechanical engineering degree?

18 A Just few months, but I have to go to mandatory
19 military service. That's mandatory in Taiwan. So I have
20 to be in military for two years.

21 Q And did you do that?

22 A When did I do it?

23 Q Did you do that?

24 A Yes.

25 Q Did you go into the military for two years?

1 A Yes, I did.

2 Q Okay. And what did you do after your two-year
3 military service in Taiwan?

4 A Then I work for a digital panel meter company,
5 a digital panel meter -- industrial panel meter company.

6 Q And --

7 A As a design engineer for their product.

8 Q And what did this panel meter company
9 manufacture?

10 A They make digital panel meter. It's an
11 industrial term that is hard to explain what it is. It's
12 like a temperature meter reading in the nuclear power
13 plant, or you see in the airport as well, air control.

14 Q So is it temperature meters?

15 A Yes, a display meter. It can be temperature,
16 pressure, anything.

17 Q Okay. Is this like a computer display?

18 A No, it's just digit in the display.

19 Q Okay. And what was the name of that company?

20 A It's called Texmate, T-E-X-M-A-T-E.

21 Q Did Texmate make anything other than these
22 panel meters?

23 A No.

24 Q And how long did you work there?

25 A I worked there as a design engineer for their

1 plastic molding part division. I worked, like,
2 two-and-a-half, almost three years there.

3 Q And after you worked at Texmate, is that when
4 you went to pursue your master's in business?

5 A Yes.

6 Q And what year did you start your MBA program?

7 A 1996.

8 Q Well, where did you attend school for your
9 master's in business?

10 A Cal State University.

11 Q And did you conclude and receive your master's
12 in business?

13 A Yes.

14 Q And in what year?

15 A '98, '97 or '98. We actually get it in '97,
16 end of '97.

17 Q And what did you do immediately after you
18 received your MBA from Cal State?

19 A After Cal State, I'm -- I actually worked for a
20 consumer electronic company. We make, like, the monitor
21 display.

22 Q And what was the name of that company?

23 A It's called Kleer Industry, K-L-E-E-R.

24 Q Was that here in the United States?

25 A Yes, in San Jose.

1 Q And so you worked for Kleer Industries starting
2 in 1998?

3 A Yes.

4 Q And was the only product that Kleer Industries
5 made were monitor displays?

6 A They are the subsidiary of a big consumer
7 company in India. And they not only make the display,
8 they also do some software development.

9 Q Well, let me just ask it this way: Did you
10 work on my products other than monitor displays and
11 software while you were at Kleer?

12 A No, this is the only two things I work for
13 them.

14 Q And how long did you work at Kleer?

15 A Like two-and-a-half year, also, before we start
16 the TriForest.

17 Q Did you conclude your employment at Kleer in
18 2000?

19 A Actually, 2001, the beginning of 2001. In 2001
20 we start TriForest in United States right here in Orange
21 County.

22 Q Okay. So I take it, then, since you worked as
23 an intern -- well, actually let me step back.

24 When did you graduate from your mechanical
25 engineering degree?

1 A I would say '93, '93. And '94 and early '95
2 was in -- actually, '93, half of 93, and '94 and the
3 first part of '95 I was in the military. At the end of
4 '95, I move to United States.

5 Q Right. I'm just trying to get the years during
6 which you were in engineering school.

7 A Okay.

8 Q And what years were those?

9 A It's 1999 -- no, 1989 to 1993.

10 Q And sometimes I'm a mechanical engineer, too.
11 And when I was in school, what I did is I would go to
12 school for a semester and then internship with a company
13 for a semester.

14 Is that how you did it?

15 A Not necessarily, because we -- I do
16 actually -- I study. Some of the day of the week, I
17 don't have class in the school. Went to our factory as
18 design engineer. Also, the whole summer and whole winter
19 term, I work there as internship.

20 Q Okay. Well, your first year engineering
21 school, did you go to school completely, or did you also
22 work at your company's -- or your parents' -- family's
23 company?

24 A The first years is only happen in the
25 wintertime and summertime. The second year we start

1 working, like, during the week as well.

2 Q Okay. If you could --

3 A Actually, I want to restate that. This is my
4 family business. We start in 1971 or something like
5 that. It's about 40 years -- 30-something years old
6 company, and I -- I actually grow up with the industry.
7 Our factory actually start from our -- our garage kind of
8 thing in my home, and we move to a bigger facility in a
9 factory. So all my life was with the plastic molding.

10 Q When did you start designing or serving as a
11 design engineer for your family's business?

12 A Actually, that's the year in my college.

13 Q Just generally speaking, if you were to take
14 all the time that you spent while you were an engineer
15 working with your family's company, how long would that
16 have been?

17 A It's hard to say. It was on and off, on and
18 off. At the time I work with the design manager. So
19 it's hard to say how many years altogether.

20 Q Okay. But you were there between 1989 and
21 1993?

22 A Right.

23 Q So it has to be less than four years, correct?

24 A Yes.

25 Q And would you say half of that time was spent

1 pursuing your engineering degree?

2 A Yes.

3 Q So I take it, then, from 1989 through the first
4 part of 2001 when you left Kleer, you basically have had
5 no experience in the bottle industry; is that correct?

6 A Not bottle industry, but the plastic molding
7 industry. I'm still with plastic molding industry all
8 the time.

9 Q Right. But specifically with bottles, you had
10 to experience between 1989 and 2001, correct?

11 A Yes.

12 Q How much of your time while you were at your
13 family's company was spent on the manufacturing side of
14 the business?

15 A You mean hands-on manufacturing or?

16 Q Any type of manufacturing associated with
17 actually making water bottles.

18 A Making water bottles? I don't quite
19 understand, like, manufacturing because I'm actually more
20 in the marketing and design part. I don't do much of
21 manufacturing. But I'm involved with the decision making
22 for getting the new technology, new tool, and I am
23 involved in design of the product.

24 MR. CHENG: Does engineering count as
25 manufacturing?

1 MR. SCHATZ: Well, let me step back.

2 THE WITNESS: I don't actually operate a
3 machine, how this came out.

4 Q BY MR. SCHATZ: Right.

5 Does TriForest manufacture its water bottles?

6 A Yes.

7 Q Do they have a manufacturing floor where that's
8 done?

9 A Floor?

10 Q A portion of the business where the
11 manufacturing actually takes place?

12 A Actually, we -- a hundred percent is done by
13 us. We do from scratch. We buy the mold material and
14 make the bottle design, make the mold. We are actually
15 the mold making company as well. We make the mold.
16 We -- we install the mold in the machine and we do kind
17 of the temperature testing and finally we come up with
18 good product we release to the market.

19 Q Okay. Let's generally define that as the
20 manufacturing process for TriForest.

21 A Okay.

22 Q So you've been involved in that manufacturing
23 process since 2001, correct?

24 A Yes.

25 Q Before that time, what experience have you had

1 in the manufacturing side of bottles?

2 A It's actually -- we -- I actually design some
3 of the customer's product. We used to be like oriental
4 company. We make some people have design, and we make
5 mold for them. We manufacture for them. But TriForest,
6 when I start TriForest, it's the first time we have our
7 own product.

8 Q Okay. I'm talking about your personal
9 experience.

10 I realize your personal experience since 2001
11 because TriForest manufactures it's own bottles, correct?

12 A Right.

13 Q Before 2001, what experience have you had in
14 the manufacturing of bottles?

15 A My experience is to making the bottle for our
16 customer including the mold design, product design. That
17 was when I was in college.

18 Q Okay. So what you're saying --

19 A And that is not a TriForest brand product.
20 That's some other brand product.

21 Q Correct. Okay.

22 So while you were at your family's business for
23 approximately two years total, you dabbled in
24 manufacturing of water bottles?

25 A Uh-huh.

1 Q But since that time, you had no experience in
2 manufacturing up to and including 2001, correct?

3 A Yep.

4 Q Okay. Tell me about how TriForest began.

5 A How TriForest began? In terms of what?

6 Q Was it your idea?

7 A Yes.

8 Q How did you come up with that idea?

9 A Actually, it's my idea and my partner, Rehan,
10 has idea. He has -- he was a scientist for 20 years,
11 biotech industry. We are in the class MBA program
12 together, and we constantly talking about having business
13 together with my expertise and with his expertise. So we
14 are kind of trying to consolidate our knowledge into a
15 business.

16 Q So is it fair to say that the company,
17 TriForest, was created by yourself and Mr. Rehan?

18 A Yes.

19 Q Okay. And you said Mr. Rehan had some
20 expertise.

21 What was Mr. Rehan's expertise in?

22 A It's in research end for the biological,
23 chemical, and the -- for, like, the research market.
24 He's involved in the introduce product using the
25 container like this (indicating).

1 (Interruption in proceedings.)

2 Q BY MR. SCHATZ: Is it fair to summarize
3 Mr. Rehan's expertise was in the marketing side of
4 products?

5 A Yes.

6 Q And any other experience Mr. Rehan brought to
7 the table?

8 A Also about product that people commonly use in
9 the laboratory.

10 Q Anything else?

11 A Developed a creative product in concept. And
12 with a connection of his expertise, he know many people
13 in the industry, we are able to introduce our product.

14 Q And, Mr. Lin, what expertise did you bring to
15 the table?

16 A The technology of plastic molding.

17 Q And specifically, what knowledge did you have
18 in the technology of plastic molding?

19 A Any plastic injection -- injection point.

20 Q Wait a minute.

21 A And specialty in polycarbonate material.

22 Q Okay. Are you saying that you had expertise in
23 manufacturing of bottles?

24 A Uh-huh.

25 Q Okay. Where did that expertise come from?

1 Because we just got done concluding that you had not been
2 involved in manufacturing of bottles since 1993?

3 MR. CHENG: Objection; argumentative, lacks
4 foundation.

5 THE WITNESS: Do you want me --

6 MR. CHENG: You may answer the question.

7 Q BY MR. SCHATZ: Did you understand the
8 question, sir?

9 A Can you say that again?

10 Q Sure.

11 My understanding is you believe that you
12 brought expertise in technology of plastic molding.
13 Okay.

14 Why don't you just describe what that
15 specifically means?

16 A Okay. I was in the plastic business molding
17 ten years in design and creating mold, and before we
18 actually make container for other people, which I
19 involved when I was in college working with my family.

20 Q Okay. Is it fair to say that your connections
21 with your family was one item that you brought to the
22 table?

23 A Yes.

24 MR. SCHATZ: Clement, did you mark Exhibit 13?
25 I thought you said you had 13 exhibits.

1 MR. CHENG: Yes, I started out with 14.

2 MR. SCHATZ: Let's go ahead and mark this as
3 Exhibit 13.

4 MR. CHENG: Yeah, okay.

5 (Opposer's Exhibit 13 was marked for
6 identification by the court reporter
7 and is attached hereto.)

8 Q BY MR. SCHATZ: Mr. Lin, if you could review
9 that briefly.

10 Have you ever seen this document before?

11 A I'm not sure. I have to check. I think this
12 is the copy of the Wheaton catalog.

13 Q And if I could direct your attention to the
14 third page of Exhibit 13. And if you could just briefly
15 review the -- correct, the language in the first
16 paragraph under "Pyrex brand square bottles graduated."
17 If you can just review that for a minute. I'm going to
18 ask you a few questions.

19 MR. CHENG: Is that the borosillicate glass.

20 THE WITNESS: The square one?

21 MR. SCHATZ: That's correct.

22 MR. CHENG: Oh, okay. That was the square one.

23 THE WITNESS: Okay.

24 Q BY MR. SCHATZ: Have you had a chance to review
25 that?

1 A Yes.

2 Q Okay. The first sentence states, "Pyrex
3 borosillicate glass provides exceptional chemical and
4 thermal resistance."

5 Do you agree with that statement?

6 A Yes.

7 Q And the second sentence states, "Square design
8 saves 13 to 20 percent of shelf space."

9 Do you agree with that statement?

10 A Yes, because it's the square shape for the
11 storage. It's actually save the space for the user.

12 Q And that same sentence goes on to say, "And
13 slightly convex walls minimize glass-to-glass contact
14 during autoclaving."

15 What's the benefit of minimizing glass-to-glass
16 contact?

17 A To my knowledge, in the autoclave, you need to
18 put the bottles a little bit apart to allow the skin
19 going in between the bottle. If you have the square
20 bottle side-by-side, you are cooking a big piece of,
21 whatever you want to call it, liquid or in a container,
22 the steam will not go in there. With their beveled edge,
23 the steam can easily go in. That's why they're trying to
24 pursue.

25 Q So having the slightly convex walls is

1 beneficial, correct?

2 A In -- yes.

3 Q I'll pass to you what's been marked as
4 Exhibit 14.

5 (Opposer's Exhibit 14 was marked for
6 identification by the court reporter
7 and is attached hereto.)

8 MR. CHENG: Are we done with Exhibit 13?

9 MR. SCHATZ: For now we are.

10 MR. CHENG: Okay.

11 Q BY MR. SCHATZ: Mr. Lin, I'm going to direct
12 you to the first page of Exhibit 14.

13 A Uh-huh.

14 Q And the first paragraph in small type there, do
15 you see the sentence that begins, "Special lip and
16 sloping shoulders make pouring and cleaning easy."

17 Do you see that sentence?

18 A Yes.

19 Q And do you see a reference to the bottle,
20 picture of the bottle to the left, associated with that
21 description?

22 A Yes.

23 Q And can you compare for me the slope of the
24 shoulder of that bottle depicted in Exhibit 14 with that
25 of the Nalgene mark or the mark that Nalgene seeks in

1 this opposition?

2 A Okay. The Nalgene shoulder is actually, I will
3 call, short shouldered. It doesn't go slope like this
4 Wheaton bottle mainly because this is a plastic bottle,
5 and it made by, like, a polycarbonate which is more
6 expensive material.

7 If you want to make the slope like a Wheaton
8 one, you actually waste a lot of plastic. So most
9 plastic bottle, we try to reduce the plastic usage by
10 shorten the shoulder. Like us, we also shorten the
11 shoulder, but we doesn't make a shoul- -- a Nalgene.

12 We actually make a little bit of slope like
13 Wheaton. We are actually wasting a lot -- a little bit
14 material than the Nalgene does. But if we want to make
15 bottle as Wheaton with a big slope, we waste even more
16 material.

17 Q Okay. Do you agree with me that the bottle
18 depicted at the front page of Exhibit 14 has a shoulder
19 slope that is not similar looking to that of the Nalgene
20 mark?

21 A Yes, it is a little bit different in shoulder,
22 but it is still rounded edge connect -- interconnect to
23 the neck.

24 Q And do you agree with me or do you agree with
25 the statement that begins, "Spacial lip and sloping

1 shoulders make pouring and cleaning easy."

2 Do you agree with that?

3 A That part I don't know.

4 Q Why don't you know?

5 A Because you -- you still can clean this easy.

6 MR. CHENG: When you say "this," what are you
7 pointing to?

8 THE WITNESS: This is a TriForest bottle, and
9 the Nalgene bottle, people can still clean it easy.

10 Q BY MR. SCHATZ: Mr. Lin, I'm referring to the
11 picture of the bottle --

12 A Okay.

13 Q -- on Exhibit 14.

14 A Okay.

15 Q And I think we established that the slope of
16 the shoulder of that bottle is not similar to that of the
17 Nalgene mark, correct?

18 MR. CHENG: Could I talk to my client just one
19 minute?

20 MR. SCHATZ: No, you can't.

21 MR. CHENG: On the record. I just want to give
22 him an instruction.

23 Steve, when you point to something and you say
24 "this," the court reporter doesn't know what "this" is
25 because there's no video. And then, also, Brett may not

1 see that because he may been looking at his exhibit. So
2 you have to go slower and make it clear to Brett and also
3 to the court reporter --

4 THE WITNESS: Okay.

5 MR. CHENG: -- to avoid confusion.

6 Q BY MR. SCHATZ: Let's start over, okay?

7 A Okay.

8 Q I'm referring to the bottle that's depicted on
9 the first page of Exhibit 14.

10 A Okay.

11 Q And I think we demonstrated that the slope of
12 the shoulder of that bottle is not similarly looking to
13 the Nalgene mark, correct?

14 A Yes, it's not -- not exactly the same. The
15 slope is actually bigger --

16 Q Okay.

17 A -- on the glass bottle.

18 Q Now, associated with that picture on Exhibit
19 14, there is a sentence that reads, "Special lip and
20 sloping shoulders make pouring and cleaning easy."

21 Do you agree with that statement associated
22 with the picture of the bottle on Exhibit 14?

23 A This part I am not sure.

24 Q And why are you not sure?

25 A Because I don't personally use this bottle in

1 my -- my experience.

2 Q And by "this bottle," you are referring to the
3 bottle that's depicted on Exhibit 14?

4 A Yes.

5 Q Okay. So you can't comment on the ease of
6 pouring and cleaning of a bottle with a shoulder sloped
7 like that depicted on Exhibit 14?

8 A Right.

9 Q You just don't have the knowledge to testify to
10 that, correct?

11 A I never use it.

12 Q Flipping to page 2 on Exhibit 14, and I'll
13 refer your attention to the first paragraph with language
14 associated with the graduated Qorpak bottle beakers. If
15 you could review that for me, and I'm going to ask you a
16 few questions after that.

17 A Yes. This one?

18 Q That's correct.

19 MR. CHENG: Are we looking at the first one?

20 MR. SCHATZ: That's correct.

21 MR. CHENG: Oh, okay.

22 Q BY MR. SCHATZ: Have you had a chance just to
23 look at that? I'm not going to quiz you on it. I'm just
24 going to ask you questions about it.

25 A Yes.

1 Q Okay. Well, there's a sentence towards the end
2 of that paragraph that reads, "Special 32-ounce bottle
3 utilizes a French square design that allows an economical
4 use of shelf space."

5 A Yes.

6 Q Do you agree with that statement as associated
7 with the bottle depicted to the -- just to the left of
8 that description?

9 A Yes, square bottle always better for storage.
10 We have a product in square as well.

11 Q Okay.

12 A And the round bottle has different purpose,
13 such as rolling.

14 Q Okay. And the sentence continues that that
15 "Special 32-ounce bottle utilizes a French square design
16 that makes the container easier to grip when pouring."

17 Do you agree with that statement?

18 A Part of it is true because when it's smaller in
19 the hand, it's easier to grip. When it's bigger in the
20 hand, you can't grip a square bottle with your whole hand
21 open.

22 Q Okay. But if the square bottle is thin enough,
23 then it's easier to grip, correct?

24 A Not necessarily, because the round bottle thin
25 enough is even easier to grip. Square bottle, it's like

1 this (indicating). You have to hold your hand at an
2 angle. A round bottle is natural to your hand.

3 Q Okay. So if you take a cylindrical bottle and
4 a square bottle of the same cross-sectional shape or
5 size, it's your opinion that the round bottle is easier
6 to hold?

7 A Yes.

8 Q Okay. So you're basically saying that the
9 statement here in Exhibit 14 is false? Is that what
10 you're saying?

11 A That's no comparison between the cylindrical
12 bottle and a square bottle. If they're talking about
13 square bottle with thinner parameter, it's pretty easy to
14 grip. That's true. But compared to the same parameter
15 of the round bottle, a round bottle is actually more
16 easier to grip.

17 Q Okay. And what do you base that opinion on?

18 A Because the cylindrical shape is your natural
19 shape of your -- of your hand. This is a foreign shape
20 to your hand. Actually, we create this beveled edge on
21 our square bottle.

22 Can I say that?

23 MR. CHENG: Stop saying "this" without
24 referring to what you're talking about.

25 THE WITNESS: Okay.

1 MR. CHENG: Would you like him to talk about
2 these?

3 MR. SCHATZ: No, I don't.

4 Q BY MR. SCHATZ: Okay. So it's your opinion --

5 A Square bottle is not that easy to hold.

6 Q Okay. Have you ever done any consumer
7 marketing about that?

8 A Marketing?

9 Q Sure.

10 A On our -- in our company?

11 Q Have you ever done surveys with consumers to
12 determine whether or not a square bottle or a round
13 bottle is easier to grip?

14 A No.

15 Q What do you base your opinion on, then?

16 A This is my opinion.

17 Q It's just based on your personal preference?

18 A Your -- your hand is actually -- by nature,
19 it's a curve. It's not square. It's easier to hold one
20 with curve, not one with a straight angle.

21 Q So that's your opinion?

22 A Yes.

23 Q And that's it?

24 A Yes.

25 Q You don't base it on anything else, correct?

1 A Correct.

2 Q I'll pass to you what has been marked as
3 Exhibit 15.

4 (Opposer's Exhibit 15 was marked for
5 identification by the court reporter
6 and is attached hereto.)

7 Q BY MR. SCHATZ: Are you familiar with the three
8 bottles depicted in Exhibit 15?

9 A Yes.

10 Q Have you physically seen the physical products?

11 A Yes, I have.

12 Q Are each of these bottles competitive products
13 to the mark sought by Nalgene in this matter?

14 A Yes.

15 Q Are all of these bottles competitive
16 functionally to a bottle depicting the Nalgene mark
17 that's sought in this opposition?

18 A Functional, this is not. This got more indent
19 in the side of the bottle, and that's not easy to clean.

20 Q Okay. Which bottle are you referring to?

21 A All three of them have the indent. Like the
22 Timberland bottle got this grip on the shoulder. The
23 Starbucks bottle got indents on the side of the body.
24 The Eddie Bauer bottle got three indents for gripping,
25 and that is not easy to clean.

1 Q Okay. Other than the ability to clean these
2 bottles, is there anything else affecting the
3 competitiveness --

4 A Yes.

5 Q -- from a functional standpoint?

6 A Yes, for Starbucks, they can only print on the
7 front surface, which is the cylindrical surface. They
8 cannot print a big picture or, like, they cannot print
9 360 degree all around a bottle like a cylindrical bottle.
10 Eddie Bauer bottle can only print front and back because
11 the indent on the side, they can't print all the way
12 through.

13 Q Anything else?

14 A In the laboratory standpoint, all this bottle
15 with indent, Eddie Bauer and Starbucks with indent on the
16 bottle, people cannot put a label on it. It's difficult
17 to put a large label on it.

18 Q Okay. You will agree with me, though, the two
19 bottles to the left of Exhibit 15, that is the bottles
20 marked "Eddie Bauer" and "Starbucks," they have printing
21 on those bottles, correct?

22 A They have a small printing on the bottle, yes.

23 Q And related to the cleaning of the Eddie Bauer
24 and Starbucks bottle, have you ever done any testing
25 about the ease in which you can clean the inside of those

1 bottles?

2 A Starbucks I did. For putting coffee in and
3 after a while use, you've got the coffee deposit around
4 the indent. Eddie Bauer, if you put some, like, juice in
5 there, you've got the residual of juice in the grip area.

6 Q Okay. And describe for me the testing you
7 performed about cleaning those two bottles.

8 A First, we were putting in the dishwasher, and
9 the dishwasher would clean most of the, what do you call,
10 material off on the liquid. But if you really try to
11 clean it inside, like, hundred percent, it's really hard
12 because the neck is narrow.

13 Q When did you perform this test, sir?

14 A This is almost a year ago.

15 Q And do you have any documents that support that
16 testing?

17 A No, we just do it like consumer testing.
18 Myself is doing the testing, and our laboratory
19 scientists do the testing.

20 Q Do you agree that the bottle in the middle of
21 Exhibit 15 has sloped shoulders that are not similar
22 looking to the mark sought by Nalgene?

23 A Yes, this is not a typical Boston round bottle
24 because the neck is comparatively wider than the
25 narrow-mouth Boston round bottle. It's actually a unique

1 design.

2 Q And do you agree with me that the cap of the
3 bottle in the middle is more rounded than that sought by
4 Nalgene?

5 A Yes, because it's not a typical 38-430 neck.
6 It's a shorter neck, so they can use a shorter cap.

7 Q And do you agree with me that the bottle in the
8 middle does not demonstrate a depression at the top in
9 the middle portion of the cap, for example, where the --

10 MR. CHENG: So there is a depression, though?

11 THE WITNESS: There's a button.

12 MR. CHENG: Are you talking about the Eddie
13 Bauer one?

14 MR. SCHATZ: No, bear with me a second, and
15 I'll clarify that question.

16 Q BY MR. SCHATZ: Have you ever seen the top of
17 the Starbucks bottle which is depicted in the middle of
18 Exhibit 15?

19 A Have I -- say that again. I'm sorry.

20 Q Have you ever seen the physical product --

21 A Yes.

22 Q -- referring to the Starbucks bottle in the
23 middle of Exhibit 15?

24 A Yes.

25 Q Okay. And here, let's do it this way: I'm

1 going to pass to you what's been marked as Exhibit 16.

2 (Opposer's Exhibit 16 was marked for
3 identification by the court reporter
4 and is attached hereto.)

5 Q BY MR. SCHATZ: And I'll just represent to you
6 that this is a drawing of the mark sought by Nalgene,
7 okay?

8 A Uh-huh.

9 Q Do you see in Exhibit 16 at the very top center
10 of the cap there is a depression in the very middle?

11 A Yes, that's for ultrasonic welding, the hone
12 position, yes.

13 Q Right. Very good.

14 Now, comparing that ultrasonic welding
15 depression to the cap of the bottle that is in the middle
16 of Exhibit 15, do you agree with me that there is not a
17 similar depression in the bottle in the middle of Exhibit
18 15?

19 A Yes, they actually have a mold for this tether
20 cap, and they don't share this cap with some other
21 laboratory bottle. They don't need to have a button
22 like -- like we do on our bottle.

23 Q Okay. So just to confirm, then, the bottle in
24 the middle of Exhibit 15 does not have a depression in
25 the middle of the cap that would be associated with the

1 ultrasonic welding process?

2 A Right.

3 Q I'll refer your attention to the bottle on the
4 left of Exhibit 15.

5 Have you ever seen that physical product?

6 A Yes.

7 Q Okay. Do you agree with me that the top strap
8 is not connected to the top portion of the cap?

9 A It's connected.

10 Q Let me ask it this way.

11 A Okay.

12 Q You understand that with these bottles there is
13 a very top surface that, generally speaking, runs
14 horizontal to the ground?

15 A Uh-huh.

16 Q Okay. And would you agree with me that the top
17 strap of the bottle to the left of Exhibit 15 does not
18 connect on top of that surface?

19 A Does not connect? Can you rephrase your
20 definition of "connect"? It is connecting, but it's --

21 Q That's fair. Let's do it this way.

22 A Yeah.

23 Q Referring back to Exhibit 16, do you see that
24 at the very top of the drawing of Exhibit 16 that the top
25 annular ring is attached to the top surface of the cap?

1 Do you see that?

2 A Yes.

3 Q Okay. Now, then referring back to the bottle
4 depicted in the left of Exhibit 15, would you agree with
5 me that the top ring does not attach to the top surface
6 of the cap as it does in Exhibit 16?

7 A Yes.

8 Q Would you also agree with me that the top ring
9 of the bottle to the left of Exhibit 15 is equal in
10 diameter to the cap itself?

11 A No, it has to be smaller to insert to the
12 groove.

13 Q Okay. That's a good point.
14 You've got this top?

15 A Top ring?

16 Q Top ring.

17 A Smaller than the cap diameter.

18 Q Right.

19 And is there basically two diameters associated
20 with that top ring? There's the internal diameter where
21 there's no material, and then there's an outer diameter
22 that reflects the -- the area of no material and then the
23 material associated with the top ring?

24 A Yes.

25 Q So there's basically two diameters?

1 A Yes.

2 Q Okay. Referring then to the outermost diameter
3 of that top ring, would you agree with me that that outer
4 diameter is at least as large as the diameter of the cap
5 of the bottle depicted to the left of Exhibit 15?

6 A Yes.

7 Q With respect to the bottle to the left of
8 Exhibit 15, you also agree with me that there is no
9 depression in the top of the cap associated with the
10 ultrasonic welding process?

11 A No, again, this is a mold just for the tether
12 cap. They don't need to do ultrasonic welding.

13 Q Okay. Just to clarify for the record, then --

14 A Right.

15 Q -- you agree with me that there is no such
16 depression in the bottle depicted to the left of Exhibit
17 15?

18 A Correct.

19 Q Is it your opinion that the bottle to the left
20 of Exhibit 15 would fall within the scope of the mark
21 sought by Nalgene?

22 A If you looking at -- by far, it looks pretty
23 similar to the Boston round without the indent. If you
24 turn one angle, it looks very identical but the other
25 angle with the grip you can tell the difference. They

1 are actually a little bit indent on the bottle itself.

2 Q Okay. So with the indentations visible on the
3 bottle to the left of Exhibit 15, is it your opinion that
4 that bottle would not fall within the scope of the mark
5 sought by Nalgene; is that correct?

6 A I'm not sure of your question. Can you say
7 that again?

8 Q Sure.

9 You understand the mark sought by Nalgene in
10 this matter, correct?

11 A Correct.

12 Q Okay. Do you believe that the bottle to the
13 left of Exhibit 15 falls within that mark?

14 A The Eddie Bauer bottle is typical Boston round
15 bottle but with a grip. With the grip, it's -- we don't
16 call it Boston round bottle anymore because it has a
17 design to it. And, yes, I agree this customer can
18 identify this bottle. It's not a Boston round bottle
19 like Nalgene does.

20 Q Maybe I need to ask my question a little more
21 clearly because you didn't answer my question.

22 A Okay.

23 Q Okay. What I'm asking is, do you believe the
24 bottle to the left of Exhibit 15 falls within the scope
25 of the mark sought by Nalgene?

1 A No, they are not.

2 Q Okay. And same question for the bottle in the
3 middle of Exhibit 15.

4 A Okay.

5 Q Do you believe that the bottle depicted in the
6 middle of the Exhibit 15 falls within the scope of the
7 mark sought by Nalgene?

8 A No, it's a unique design.

9 Q And same question for the bottle to the right
10 of Exhibit 15, do you believe that that bottle falls
11 within the scope of the mark sought by Nalgene in this
12 matter?

13 A No.

14 Q Referring to the bottle to the left of Exhibit
15 15 --

16 MR. CHENG: 15? Oh, this one.

17 Q BY MR. SCHATZ: Do you believe that bottle has
18 a stem?

19 A This one (indicating), the Eddie Bauer bottle?

20 Q Correct.

21 A Yes.

22 Q You believe it does have a stem?

23 A Yes.

24 Q And do you believe the bottle depicted in the
25 middle of Exhibit 15 has a stem?

1 A Yes.

2 Q Do you believe that the bottle to the left of
3 Exhibit 15 has a tether?

4 A Yes.

5 Q And it has a cap?

6 A Yes.

7 Q And it has a cap that remains connected to the
8 bottle when removed?

9 A Yes.

10 Q And the bottle to the left can hold water?

11 A Yes.

12 Q It's plastic?

13 A Yes.

14 Q It's transparent?

15 A Yes.

16 Q It has a neck?

17 A Yes.

18 Q Okay. I'm going to ask you the same questions
19 for the bottle depicted in the middle of Exhibit 15.

20 That has a stem, correct?

21 A Yes.

22 Q It has a tether?

23 A Yes.

24 Q It has a cap?

25 A Yes.

1 Q It has a cap that remains connected to the
2 bottle when removed?

3 A Yes.

4 Q It can hold water?

5 A Yes.

6 Q It's plastic?

7 A Yes.

8 Q It's transparent?

9 A Yes.

10 Q And it has a neck?

11 A Yes -- it doesn't have a neck, actually. The
12 neck is -- okay, yeah. I'm sorry.

13 MR. SCHATZ: I'll pass to you what has been
14 marked as Exhibit 17.

15 (Opposer's Exhibit 17 was marked for
16 identification by the court reporter
17 and is attached hereto.)

18 Q BY MR. SCHATZ: Have you seen this document
19 before?

20 A Yes.

21 MR. CHENG: Well, I would object to Exhibit 17
22 on the basis of -- that it's a settlement communication
23 under Federal Rule of Evidence 703.

24 MR. SCHATZ: Your objection is noted. That's
25 fine.

1 MR. CHENG: Go ahead and answer.

2 Q BY MR. SCHATZ: Have you seen this document
3 before?

4 A Yes.

5 Q Okay. And who is Mr. Syed Rehan?

6 A He's my business partner.

7 Q What is his active duties with TriForest?

8 A He's in charge of the business development,
9 marketing, product development, and the distribution.

10 Q And what's your current responsibilities?

11 A Hmm?

12 Q What are your current responsibilities with
13 TriForest?

14 A The operation, finance, and -- and product
15 design, and operation for making new product.

16 Q Who is responsible for the manufacturing floor
17 where the bottles are actually produced?

18 A It's me.

19 Q I'll refer your attention to the second
20 paragraph of Exhibit 17, and I want to focus your
21 attention on the second sentence.

22 A Second paragraph?

23 Q And specifically the second sentence of the
24 second paragraph.

25 A Okay.

1 Q Did you modify the TriForest narrow-mouth
2 loop-top water bottles?

3 A Yes.

4 MR. CHENG: Objection; relevance.

5 You may answer.

6 THE WITNESS: Yes, we make changes on narrow
7 mouth to meet Stansport's need.

8 Q BY MR. SCHATZ: And what changes were made?

9 A It was adding a rip on the shoulder. We change
10 to a larger cap with the larger grip, and we even change
11 the button.

12 Q Any other changes made?

13 A I think that's it.

14 Q And was Stansport agreeable to the changes you
15 made?

16 A Yes.

17 Q Have sales to Stansport maintained
18 consistent --

19 A No.

20 Q -- after the changes?

21 A No, after we change it, the market basically
22 not accept this. We actually experience very big sales
23 drop.

24 Q How much?

25 A I would say 80 percent.

1 Q In that same sentence, Mr. Rehan represents
2 that those changes were made, "To ensure that it does not
3 cause any confusion in the market against other bottles."

4 Was the concern there confusion with the
5 Nalgene narrow-mouth bottle?

6 A Stansport receive a threatening letter from
7 Nalgene earlier and Stansport doesn't want to -- Nalgene
8 letter was stating that our bottle with the Boston round
9 with tether cap is confusing in the market to the
10 Nalgene's narrow-mouth bottle. So Stansport actually
11 tried to make some mold changes to change to the current
12 appearance to make it different enough than the Nalgene's
13 traditional narrow mouth with tether cap.

14 Q Do you agree that that was the purpose behind
15 the changes made in the TriForest bottle?

16 A Say that again. I'm sorry.

17 Q Do you agree that that was the reason behind
18 the changes made in the TriForest bottle?

19 A Yes.

20 Q Did you believe at that time that there could
21 be confusion in the marketplace over whether the
22 TriForest bottle was a Nalgene bottle or a TriForest
23 bottle?

24 A We don't believe there's a confusion because we
25 introduce the same bottle in the laboratory, and people

1 know there's a difference. The cap is different. The
2 logo is different. The printing of graduation are
3 different. And we don't even mold Nalgene -- Nalgene has
4 their name on the bottom of the bottle. We -- we mold
5 the different style in our bottle, so it's different
6 enough.

7 Q Okay. So you don't believe the TriForest
8 bottle before the changes were made were confusing in the
9 marketplace to the Nalgene bottle?

10 A No, and in addition, the shoulder is different.
11 We've got bigger slope than the Nalgene bottle.

12 Q Was the TriForest bottle, before the changes,
13 made competitive with the Nalgene bottle?

14 A In terms of what?

15 Q Sales.

16 A Not at all. Nalgene is well known brand, and
17 we are a small product in laboratory. We introduced the
18 same bottle in our outdoor business. And our cap is
19 totally different than Nalgene, so people can identify
20 very easily, and we use a different color cap.

21 Q Okay. So you believe that the TriForest
22 bottle, before the changes were made, had an appearance
23 that was not similar to that of the Nalgene bottle?

24 A No.

25 Q Just so we're clear for the record, is it

1 correct that you believe that the TriForest bottle,
2 before the changes were made, had a look that was not
3 similar to the Nalgene bottle?

4 A Yes, I believe.

5 Q So that's correct?

6 A Correct.

7 Q Was the TriForest bottle, before the changes
8 made, competitive from a functional standpoint to the
9 Nalgene bottle?

10 A A functional standpoint, it's pretty similar.
11 It's nothing different, same material made, mold in
12 different shape, and the cap mold in different shape of
13 the bottle, but it's similar in function.

14 Q Did you ever have discussions with Stansport
15 about why they believed that there might be confusion in
16 the marketplace?

17 A Because Nalgene is the one sending letter to
18 Stansport, like our narrow-mouth bottle is confusing in
19 the market.

20 Q Did you have discussions with anyone from
21 Stansport that believed that there could be confusion?

22 A Yes.

23 Q And tell me about those discussions.

24 MR. CHENG: Objection on the basis of hearsay.

25 Go ahead, Steve.

1 THE WITNESS: They -- actually, Stansport used
2 to be the distributor of Nalgene, and they don't want to
3 create trouble with Nalgene. They are playing more
4 conservative way. Although, we don't believe the bottle
5 is similar to Nalgene bottle, but we willing to help
6 Stansport trying to stop the threatening letter from
7 Nalgene.

8 Q BY MR. SCHATZ: So based on your personal
9 involvement with Stansport, you believed that people at
10 Stansport believed that there could be confusion in the
11 marketplace?

12 A They don't -- actually, they don't believe this
13 is causing the confusion in the marketplace. But since
14 they are receiving the threatening letter from Nalgene,
15 in order to stop the trouble, they are the ones saying,
16 why don't we make changes.

17 Q So you're saying now that the people at
18 Stansport did not believe that there could be any
19 confusion; is that correct?

20 A Yes.

21 Q And who at Stansport made that representation
22 to you?

23 A Name?

24 Q Yes.

25 A Victor.

1 Q What's Victor's last name?

2 A I don't know how to spell. I don't know how
3 the spell the last name, Priceler.

4 Q Is it with a P?

5 A Yes.

6 Q Priceler?

7 A Yes.

8 Q And what's Mr. Priceler's title at Stansport?

9 A He is the president.

10 Q Well, he'll be easy to find, then. Okay.

11 In paragraph 3 of Exhibit 17, in the third
12 sentence, Mr. Rehan states, "We are presently seeking
13 legal confirmation that the three-strip grip, indented,
14 wide mouth, loop-top water bottle is considerably
15 different from your stated trademarked design and will
16 not be a cause for confusion with your products."

17 First of all, can you describe for me the
18 three-strip indented grip? What is that?

19 A Okay. We have a cylindrical bottle. The
20 outdoor market and laboratory market for the wide mouth
21 version of the bottle and for this bottle (indicating),
22 we don't actually use it in the laboratory for storage.

23 So we actually are able to create a three strip
24 on the side for gripping, just like Eddie Bauer doing for
25 gripping, to make the bottle different than a regular

1 cylindrical bottle. But in the narrow mouth, the
2 cylindrical bottle is very commonly used in the
3 laboratory.

4 If we add something like this (indicating),
5 nobody is going to use them because you cannot roll
6 properly, you cannot place label anymore, you cannot
7 screen printing. So we don't actually -- can't be able
8 to do that on a narrow mouth, but we are able to do that
9 on the wide mouth.

10 Q These are physical indentations in the bottle
11 itself?

12 A Yes.

13 Q Okay. Do those indentations make the bottle
14 easier to grip?

15 A Yes.

16 Q And your position is that you cannot print on a
17 narrow-mouth bottle that has indentations, but you can
18 print on a bottle -- on a wide-mouth bottle that has
19 those indentations?

20 A We lost the opportunity to print -- screen
21 print the wide-mouth bottle with indentation 360 degree
22 around it. We can only print front and back.

23 Q How many TriForest bottles do you print 360
24 degrees on?

25 A There are many. Even more people want to print

1 a bigger picture like this (indicating).

2 Q Let me ask my question again, okay?

3 A Uh-huh.

4 Q How many bottles has TriForest offered for sale
5 that have 360-degree printing on it?

6 A We don't offer TriForest local has 360-print
7 bottle. But customer has the custom logo on our bottle.
8 They want a whole picture, like camouflage around it, or
9 big view of a national park around it.

10 Q Do you have any examples of those bottles with
11 printing around the entire circumference of the bottle to
12 show us today?

13 A Not today. I don't bring any.

14 Q Would you agree with me that Nalgene is well
15 known in the industry for manufacturing and selling water
16 bottles?

17 A Yes.

18 Q How well known?

19 A It's more well known in the laboratory and the
20 outdoor business, only that a professional hiker knows,
21 but regular consumer may not know Nalgene name.

22 Q So a hiker purchasing a water bottle would know
23 if it's purchasing a Nalgene bottle or not?

24 A Say that question again.

25 Q Sure.

1 My understanding of your testimony is that a
2 hiker would look at a water bottle and know whether or
3 not it's a Nalgene bottle?

4 A Yes, because Nalgene bottle only sell with
5 Nalgene printing or Nalgene logo mostly on the cap or
6 Nalgene logo on the bottom of the bottle.

7 Q So how would the hiker in our example know that
8 it's a Nalgene bottle?

9 A They can easily pick up the bottle, see if
10 there's a Nalgene logo on the bottom, a Nalgene logo on
11 the top.

12 Q What if there was no Nalgene logo on the
13 bottle? Would the hiker know that it's from Nalgene?

14 A Does Nalgene make bottle without logo?

15 Q I don't know. That's a good question.

16 Well, let me ask you this: Is it your belief
17 that if Nalgene sold a bottle without the Nalgene name on
18 it, would a hiker who knows about water bottles know
19 whether that unmarked bottle is from Nalgene?

20 A I don't know. I cannot tell you this. I'm not
21 a hiker.

22 Q Okay. So you don't know? You don't know the
23 answer to that question?

24 A I don't know if Nalgene never not mold any name
25 on their bottle, so.

1 Q Okay.

2 A This is assumption question.

3 Q Okay. So you've never done any testing as to
4 whether or not a consumer would recognize an unmarked
5 bottle as that of Nalgene?

6 A Yes.

7 Q That's correct? You've never done that
8 testing?

9 A I've never done that testing.

10 Q And you've never had any surveys done on that
11 point?

12 A No.

13 Q Actually, do you need a break, sir?

14 A I'm fine.

15 Q I'll pass to you what's been marked as Exhibit
16 18.

17 (Opposer's Exhibit 18 was marked for
18 identification by the court reporter
19 and is attached hereto.)

20 Q BY MR. SCHATZ: Mr. Lin, do you recognize
21 Exhibit 18?

22 A I have to read. Yes.

23 Q And referring to the second to last page of
24 Exhibit 18, is that your signature? I'm sorry, the
25 second to last page. And my question was, is that your

1 signature?

2 A Yes.

3 Q Okay. So these answers to interrogatories are
4 under your oath?

5 A Yes.

6 Q Referring to page 3 of Exhibit 18, I'll direct
7 your attention to the response to Interrogatory No. 1.
8 The third sentence reads, "Opposer incurred substantial
9 cost to change the product configuration."

10 What costs are you referring to?

11 A The mold cost.

12 Q Anything else?

13 A The raw material cost for the larger cap.

14 Q Anything else?

15 A And engineering time for trial and error to
16 open the mold with the rib in the shoulder.

17 MR. CHENG: Maybe we should say which exhibit
18 he's referring to. Is that all right?

19 MR. SCHATZ: Yes, it's been identified in the
20 record as Exhibit 18.

21 MR. CHENG: Okay. Thanks.

22 Q BY MR. SCHATZ: Mr. Lin, I'm going to refer you
23 back to Exhibit 15.

24 A Okay.

25 Q Why didn't you pick a cap like the bottle to

1 the left of Exhibit 15 --

2 A Uh-huh.

3 Q -- when changes were made to your narrow-mouth
4 bottle?

5 A Say that question again.

6 Q Sure.

7 Why didn't you choose a -- let me step back.

8 We're referring to your response to
9 Interrogatory No. 1, and you indicated the TriForest
10 incurred costs to change the product configuration?

11 A Uh-huh.

12 Q Okay. When you were selecting a new cap, why
13 didn't you select a cap like that depicted in the bottle
14 to the left of Exhibit 15?

15 A There are two reasons: First reason, we don't
16 want to create a new mold for tether. That's the first
17 reason. You can still use the same tether. We already
18 have the mold for the tether.

19 Second reason, if you use the way Eddie Bauer
20 use, you will find the tether actually interfere with the
21 cap when you open it. The tether actually go with the
22 cap. Although it's -- it's supposed to design for rotate
23 freely, but with that much contact, you cannot actually
24 have a good result like this one.

25 Q Okay. Let me ask you a couple of questions

1 based on that.

2 Would you agree with me that the tether on the
3 bottle depicted in the left of Exhibit 15 is different
4 than the tether that TriForest uses?

5 A Say that question again.

6 Q Sure.

7 A This one?

8 Q Yes.

9 Would you agree with me that the bottle to the
10 left of Exhibit 15 has a tether that is different than
11 that used by TriForest?

12 A Yes.

13 Q Does it look different?

14 A It's different.

15 Q Does the tether associated with the bottle to
16 the left of Exhibit 15 different than the tether depicted
17 in the mark sought by Nalgene?

18 A Yes, it's different.

19 Q Have you ever done any testing regarding the
20 bottle depicted to the left of Exhibit 15 with respect to
21 the ease of unscrewing the cap?

22 A Yes, I did testing. It's not easy to unscrew
23 the cap compared to the one we use, ultrasonic welding.

24 Q Do you have any proof of that testing that you
25 are offering here today?

1 A No.

2 Q Referring back to Exhibit 18 and your response
3 to Interrogatory No. 1, and looking at the second
4 paragraph of that response, you make mention to
5 particular features all have different utilitarian
6 advantages.

7 What are those alleged utilitarian advantages?

8 A Which one? Which paragraph?

9 Q Looking at response to Interrogatory No. 1, the
10 second paragraph under that, why don't you review that
11 briefly, and then I'll ask you a few questions.

12 Have you had a chance to review that?

13 A Yes.

14 Q What alleged utilitarian advantages are you
15 referring to there? Actually, strike that. That's okay.
16 I'm going to strike that question.

17 Referring to the response to Interrogatory No.
18 3, which is located at the bottom of page 3 and the top
19 of page 4 of Exhibit 18, you make the statement, "The
20 Boston round has been sold as early as 2001 and in
21 various configurations thereafter."

22 Why don't you describe for me the various
23 configurations of your narrow-mouth bottles that
24 TriForest has offered for sale?

25 A The narrow-mouth bottle? You are saying the

1 narrow-mouth bottle? Say the question again. I'm sorry.

2 Q Sure.

3 Referring to the top of page 4, you indicate
4 that the Boston round has been sold in various
5 configurations.

6 A Uh-huh.

7 Q Are you referring to bottles that have been
8 sold by TriForest?

9 A No, we are talking about the point of 2001
10 Boston round bottle was sold.

11 Q Okay. Tell me about the different
12 configurations that the Boston round has been sold in.

13 A The Boston round is a general term of the
14 cylindrical bottle with a narrow mouth.

15 Q Okay. So in your opinion, when you use the
16 word "Boston round," you're referring to any bottle with
17 a cylindrical outline and a narrow mouth?

18 A Not any bottle. It's just straight or very
19 straight simple design, a straight wall.

20 Q No indentations?

21 A No indentations with narrow mouth.

22 Q Okay. So just to confirm, when you use the
23 term "Boston round," you're referring to any bottle that
24 has a cylindrical outline without any indentations on the
25 side but also has a narrow mouth?

1 A I don't know the detail definition of Boston
2 round should be, but typical Boston round should be a
3 cylindrical bottle with a straight wall and narrow neck.

4 Q When you use that term, you're referring to a
5 bottle with a cylindrical outline with no indentations
6 and narrow mouth?

7 A Right.

8 Q Now, tell me about the various configurations
9 that you are referring to in the response to
10 Interrogatory No. 3.

11 A Response -- our response?

12 Q Yes.

13 A Okay.

14 Q Can you describe those configurations for me,
15 please?

16 A What we were saying is the Boston round bottle
17 we sold in this configuration (indicating), the basic
18 Boston round bottle, due to Apogent's stress, which is
19 Nalgene's parent company, we actually changed the
20 shoulder part of it.

21 Q Okay. So the various configurations, you're
22 talking about after that time period?

23 A Yes.

24 Q Okay. And you say "various configurations."
25 What various configurations are you referring

1 to?

2 A Various size, we have three different size in
3 Boston round.

4 Q Okay. Same type of cap?

5 A Same type of cap, we have one liter size, half
6 liter size, and smaller bottle.

7 Q So referring back to Exhibit 15, then, you're
8 saying different size bottles but bottles with the same
9 cap as that in the right of Exhibit 15?

10 A Yes.

11 Q Mr. Lin, I'm going to pass to you what has been
12 marked as Exhibit 19.

13 (Opposer's Exhibit 19 was marked for
14 identification by the court reporter
15 and is attached hereto.)

16 Q BY MR. SCHATZ: Mr. Lin, you just told me that
17 the bottles sold by TriForest have the same cap but are
18 cylindrical.

19 Isn't it true, though, that TriForest sells
20 bottles that are not completely cylindrical? That is,
21 they have indentations?

22 A Yes, we do sell some design product. That is,
23 a customer design the product. We make the mold for
24 them. In fact, the Exhibit 19 is the picture of the
25 design that Stansport, our distributor, their own design,

1 and we make the mold and manufacture for them.

2 Q So the design for Exhibit 19 was not created by
3 TriForest?

4 A No, it's not.

5 Q So one of your customers asked specifically for
6 the design depicted in Exhibit 19, correct?

7 A Yes.

8 Q Do you know why your customer asked for the
9 specific design depicted in Exhibit 19?

10 A They like the design. They want to be
11 different in the market.

12 Q Why did they ask for the indentations depicted
13 in Exhibit 19?

14 A It's not indentation. It's the design of the
15 swirl effect.

16 Q Let's call did it a swirl.

17 Why did they want the swirl effect?

18 A They want the bottle looks a little bit
19 different design, not like a laboratory bottle.

20 Q Do these swirl designs allow for putting your
21 hand in the grooves?

22 A You can say that, but it is not actually that
23 comfortable if you try to grip it. It's not like the
24 indent. You can grip it easily. This is a swirl design.
25 It's just design.

1 Q Okay. So have you done any consumer research
2 about that, about whether the bottle depicted in Exhibit
3 19 is no easier to hold than a straight cylindrical
4 bottle?

5 A No. By the way, this is a wide-mouth bottle we
6 make for Stansport.

7 Q Yeah, that's correct.
8 The mouth is different than the mark sought by
9 Nalgene, correct?

10 A Correct.

11 Q It looks different?

12 A Yes.

13 Q In your opinion, the bottle depicting in
14 Exhibit 19 would not infringe the mark sought by Nalgene?

15 A It's completely different.

16 Q How have sales been of the bottle depicted in
17 Exhibit 19?

18 A It's not good.

19 Q Why not?

20 A Because it's too big for people to hold it.
21 And it's -- the swirl design, some people doesn't like
22 the design. It's more like a personal realistic design.
23 Some people like it. Some people may not like it. It's
24 not a neutral design that everybody will accept.

25 Q I'm going to pass to you what has been marked

1 as Exhibit 20.

2 (Opposer's Exhibit 20 was marked for
3 identification by the court reporter
4 and is attached hereto.)

5 Q BY MR. SCHATZ: Does Exhibit 20 depict a bottle
6 sold by TriForest?

7 A Yes.

8 Q What's the origin of the design of the bottle
9 indicated in Exhibit 20?

10 A It's our crystal-cut design -- design bottle,
11 and it's designed to fit the cup holder.

12 Q So I notice that the bottle on Exhibit 20 has
13 vertical panels in the lower portion of the bottle
14 descending into the bottle, correct?

15 A Yes.

16 Q So does those vertical panels and the
17 descending look make it easier to fit into a cup holder?

18 A Yes.

19 Q And would the bottle in your opinion -- that
20 was a complex question. Let me rephrase.

21 The bottle depicted in Exhibit 20, do you
22 believe that that would fall within the scope of the mark
23 sought by Nalgene?

24 A No, I don't. It's a completely different
25 design.

1 Q And the vertical panels, do those make the
2 bottle depicted in Exhibit 20 easier to hold?

3 A Yes.

4 Q Mr. Lin, I'm going to pass to you what has been
5 marked as Exhibit 21.

6 (Opposer's Exhibit 21 was marked for
7 identification by the court reporter
8 and is attached hereto.)

9 Q BY MR. SCHATZ: And before we talk about
10 Exhibit 21, let's go back to Exhibit 18, please.

11 MR. CHENG: That's the first set of
12 interrogatories?

13 MR. SCHATZ: Correct.

14 MR. CHENG: Okay.

15 Q BY MR. SCHATZ: If you'll turn to page 8,
16 second full paragraph, the one that begins, "The bottle
17 is generally cylindrical." You state there that, "The
18 bottle is generally cylindrical with rounded shoulders
19 because some machines roll the bottle."

20 A Yes.

21 Q Well, what machines are you referring to?

22 A Okay. First, as for the screen printing, it's
23 rolling. Second is for the label applicator. The label
24 need to roll -- the machine will roll the bottle to put a
25 label on. Third is when the scientists do the

1 exper- -- the culture experiment, they need to roll the
2 bottle in order to create more surface contact. So this
3 is one of the application they need to do when culturing
4 things like tissue culture, bacterial culture.

5 Q Any other bottles or any other machines you're
6 referring to?

7 A No.

8 Q With regard to the experiments, the machines
9 associated with the experiments, I'm assuming you're
10 referring to machines in a laboratory setting, correct?

11 A Right.

12 Q And --

13 A And also for outdoor, we try to screen print
14 there.

15 Q I'll get there.

16 And then you mention machines associated with
17 printing and labelling.

18 Is it your position that a bottle with
19 indentations cannot be utilized on the printing and label
20 machines you're referring to?

21 A If bottle with indentation, for example, the
22 label press, what if the label pressed on this
23 (indicating)? The customer has no control where the
24 label is putting on, what location the label will be
25 placed on.

1 So the cylindrical -- the total cylindrical
2 body is to -- for customer's convenience. They don't
3 need to worry about orientation of the bottle they place
4 on the machine, just roll it and the label will put on.

5 Q Are you saying, then, it is possible to use
6 machines for printing and labelling with a
7 non-cylindrical bottle so long as you place it correctly
8 when it first goes into the machine?

9 A Not really. First, they have to -- they have
10 to have one person to actually manage it. But when the
11 label is placed on the bottle, if you put this in,
12 the -- the machine kept going. The place to roll the
13 label, they have no control when it's going to happen.

14 Q So you're saying that a bottle with
15 indentations, let's say all the way down one side of the
16 bottle --

17 A Yes.

18 Q -- cannot be used on the machines you're
19 referring to here for printing and labelling?

20 A For printing and labelling, yes.

21 Q You can't do it?

22 A There's complicated way to do it if you add
23 sensor or more computerized, but the traditional machine
24 will not to do it.

25 Q What if I know of a manufacturing engineer

1 that's been manufacturing water bottles for 32 years and
2 he says you're completely wrong? Would you defer to him
3 because of his experience?

4 A I need the proof.

5 Q Okay. So would you defer to somebody with that
6 kind of experience if he were to testify that you are
7 wrong when you make that statement?

8 A For the small label, maybe they are right.
9 They can do a computerized or whatever they want to do to
10 make the label correctly placed, but some people want
11 more information. Let's say a label like (indicating)
12 very big all around the bottle with the indentation, you
13 actually have a bubble on the bottle.

14 Q So your saying bottles with indentations can be
15 used with the machines that you're referring to here
16 related to printing and labelling so long as the label is
17 made a little smaller, correct?

18 A I'm not sure because you will not place
19 completely in the right position the customer want it.
20 I'm not sure.

21 Q So you don't know?

22 A I don't know.

23 Q In the following sentence, you make the
24 statement, "Also, the bottle being generally cylindrical
25 with rounded shoulders allows a greater volume to surface

1 area ratio."

2 What proof of that statement do you have?

3 A Which paragraph?

4 Q The same paragraph we were just looking at, the
5 second full paragraph, second sentence. "Also, the
6 bottle being generally cylindrical with rounded shoulders
7 allows a greater volume to surface face area ratio."

8 First of all, let me ask you this: That type
9 of bottle, in your opinion, allows a greater volume to
10 surface area ratio than what?

11 A Than the square bottle or rectangular bottle
12 using the same amount of material.

13 Q And what proof do you have to offer today on
14 that point?

15 A It's basic geometry. This is -- the volume is
16 based on πR^2 times the height.

17 Q Okay. So other than that, you don't have any
18 evidence of that?

19 A Yes, people make cans cylindrical. Not many
20 people make for square because they want to save the
21 material for the can.

22 Q Do you have any evidence to offer on that point
23 today?

24 A No.

25 Q Do you have any proof to offer today that

1 transparent plastic material is more expensive than
2 opaque?

3 A I can -- I can prove the transparent material
4 is just -- the polycarbonate, it's more expensive than
5 the polypropylene.

6 Q Okay. What do you have today to offer?

7 A I don't have it today.

8 Can I say more? There is transparent material
9 that's cheaper, but it's not durable like this
10 (indicating).

11 Q If you could refer to page 10 of Exhibit 18, at
12 the very top you make the statement, "The screw cap has a
13 button connected to the center of its top surface via a
14 short stem because the screw cap is tethered to the
15 bottle."

16 Are you saying that the only way to connect a
17 cap to the bottle is to use a button?

18 A No, I am not saying that's the only way to
19 connect the tether to the cap, but that's the only way
20 for not creating a new mold by ultrasonic button.

21 Q Okay. Other than creating a new mold, then,
22 you would be able to connect the screw cap in ways other
23 than a tether, correct?

24 A Correct.

25 MR. CHENG: Just to clarify, you meant if you

1 made a new mold, then you could?

2 THE WITNESS: Yes.

3 MR. CHENG: Not other than that?

4 MR. SCHATZ: Yeah, that's a good question.
5 That's a good clarification.

6 MR. CHENG: I just wanted to --

7 Q BY MR. SCHATZ: Assuming you had the new mold
8 already made, you could produce a design such that the
9 cap is attached to the bottle without the use of a
10 tether?

11 A Yes, maybe it's not as
12 functional -- functional-wise. It's not as good as when
13 we use the button. If you compare the Eddie Bauer
14 bottle, they are not easy to rotate.

15 Q In your opinion they're not?

16 A In my opinion, right.

17 Q During your testimony while Mr. Cheng was
18 asking you questions, there was some discussion about the
19 top and bottom annular rings being separated.

20 Do you recall that?

21 A Say that again.

22 Q I just wanted to refresh your recollection that
23 you had some discussion with Mr. Cheng about the
24 separation associated with the top annular ring and the
25 bottom annular ring.

1 Do you recall that?

2 A Right.

3 Q Okay. Is it your opinion that if a tether does
4 not have that separation, then it does not fall within
5 the scope of the mark sought by Nalgene?

6 A Like this (indicating)?

7 MR. CHENG: Objection; calls for a legal
8 conclusion.

9 Go ahead.

10 Q BY MR. SCHATZ: I'm asking for your personal
11 belief that if there's not the separation between the two
12 rings that you talked about earlier, would that fall
13 within the scope of the mark sought by Nalgene?

14 A No.

15 Q What's the size of an average person's hand?

16 A That's a big question.

17 Q So you don't know?

18 A I don't know.

19 Q Okay. Well, then I want to refer your
20 attention to page 11 of Exhibit 18, and if you could read
21 the first sentence.

22 A Page 18?

23 Q Page 11 at the very top.

24 A Okay.

25 Q Did you make that statement?

1 A Yes.

2 Q Okay. And you just testified you don't know
3 what an average person's hand size is, correct?

4 A I don't know the -- the hand size in inches. I
5 cannot give you the number, but I know the personal
6 average person's hand size is all about, but I don't know
7 in inches. I don't have a number for you.

8 Q Well, explain to me, then, how you come to the
9 conclusion in the first sentence of the top of page 11
10 that relating to the ratio of the diameter of the
11 cylindrical body to the overall height "produces a
12 circumference that is approximately equivalent to the
13 size of an average person's hand."

14 How do you make that statement if you can't
15 tell me today what an average person's hand is?

16 A I know there are many size of cup in the
17 market; small, medium, large, and extra large. And some
18 of them even have medial large -- medium large. I am
19 medium large. I'm average hand size.

20 Q So you're saying a medium to large hand is an
21 average hand size?

22 A For men, yes.

23 Q Okay. And how does that relate to the ratio of
24 the diameter of a cylindrical body versus the height?

25 MR. CHENG: Do you need a calculator?

1 THE WITNESS: That's okay. That's okay.

2 MR. CHENG: Let me get you a calculator. Oh,
3 you're ready to go.

4 MR. SCHATZ: Off the record.

5 (A brief recess was taken.)

6 Q BY MR. SCHATZ: Mr. Lin, I have a concern with
7 the statement you're making at the top of page 11 because
8 you have been unable so far to define for me what is an
9 average person's hand.

10 So that being said, can you explain to me the
11 top sentence or the first sentence on page 11 of Exhibit
12 18?

13 A Okay. If you have this ratio, the diameter is
14 the height of the bottle. The ratio is .4. For example,
15 in the bottle on the portion rung, the height is 8 inches
16 high, .4 is 3. something inches in diameter. If you have
17 this in diameter times the pi, which is 3.1416, you
18 actually get 10 inches, around 10 inches, for the -- the
19 surrounding area for holding. Average person's hand is
20 somewhere around 7 to 8 inches from the -- from the
21 fingertip to the thumb.

22 Q So your position is that an average person's
23 hand is 7 inches long?

24 A I -- actually, this is based on I'm wearing a
25 glove that's medium and large, between medium and large

1 size glove. I assume this medium and large size glove
2 size similar to my hand size. It's average person's
3 hand.

4 Q Now, isn't it true that with respect to the
5 ratio of the diameter of the cylindrical body to the
6 overall height, if you both increase the diameter and
7 increase the height in sufficient amounts, the ratio can
8 remain the same, correct?

9 A Yes, but your volume would be larger. If you
10 create -- if you make the height bigger, like you make
11 the height -- the dimension of the height bigger, you
12 automatically -- if you remain the same ratio of .4, you
13 actually increase the diameter as well. With the new
14 diameter, you create a bigger cylindrical body that holds
15 more volume.

16 Q Right.
17 So in that respect, you could actually make the
18 bottle, essentially, as large a diameter as you wanted
19 and still maintain that same ratio so long as you
20 increase the height?

21 A Yes, and that's why we have one liter size, 500
22 ML size, 300 ML size. And in this statement, we were
23 saying the 500 ML size fits on the size of average
24 person's hand. The one liter size may be bigger.

25 Q Is it also true that if you have a cylinder and

1 you maintain the same diameter but increase the height,
2 then that would decrease the ratio between the diameter
3 and height, correct?

4 A Yes, but this would not be proportional
5 anymore. It's out of range of Boston round definition.
6 The range of Boston round is the -- our Attorney Clement
7 was showing us exhibit of Boston round
8 dimension -- dimension ratio.

9 Q Yeah, we'll get to that.

10 But isn't it true, though, that you could
11 look -- well, we've confirmed that, that's fine.

12 On the same page about four lines down, you
13 make the statement, "If the container were overly long,
14 it would require additional plastic to create and it
15 would not be as strong."

16 Have you ever done any testing on that issue?

17 A Which paragraph, the fourth?

18 Q First paragraph on page 11.

19 A Okay.

20 Q If you could go down to the fourth line.

21 A Uh-huh.

22 Q "If the container were overly long, it would
23 require additional plastic to create and it would not be
24 as strong."

25 What testing do you have to support that

1 statement?

2 A Okay. To make the bottle with this height, you
3 need to get a preform to me at this height, the preform
4 length of the preform will be the height of the bottle.
5 If you only pour air at this small diameter, you are
6 actually using this much material (indicating) if this
7 bot- -- the 500 ML bottle use less than the one liter ML
8 bottle material. But if you only pour the one liter
9 bottle to 500 ML volume size, you are using the same
10 material.

11 Q Correct.

12 A Yes.

13 Q So the same amount of material is used --

14 A Yes.

15 Q -- in that situation?

16 A Yeah, if you want to use the same height of one
17 liter size only for 500 ML bottle, you are actually using
18 the material that can be poured for one liter size
19 bottle, and that is the material-use waste.

20 Q Let me ask you this: Is it possible to
21 manufacture a water bottle that competes with the mark
22 sought by Nalgene but does not have a .4 ratio of the
23 diameter of the cylinder versus the height?

24 A Yes, there are many way to produce a bottle
25 that doesn't infringe Nalgene's application for a bottle.

1 Q And would the same be true for the ratio of the
2 height of the body extending between the neck and the
3 container bottle versus the overall height of the bottle?

4 A If we don't follow the ratio, the bottle will
5 not call Boston round anymore in a laboratory.

6 Q So my question is: Can you make a bottle that
7 doesn't have a .8 ratio?

8 A Yes, we can, just like a Coca-Cola bottle. You
9 can make a Coca-Cola bottle, but nobody call Coca-Cola
10 bottle is a Boston round bottle in a laboratory.

11 Q I want to refer your attention to page 12 and
12 specifically Interrogatory 14 and 15.

13 My question is: Do you have anything more to
14 add to responded to those interrogatories?

15 A Okay. For the No. 14, the reason why we select
16 this configuration is this -- this configuration is the
17 most commonly used in the laboratory as a Boston round
18 bottle shape. And we try -- we try to use the same mold
19 for Boston round bottle by adding tethers for outdoor.
20 With Nalgene's application, it seems nobody else can use
21 Boston round tether introduced to -- to the outdoor
22 market or any market or even sell in a laboratory market
23 itself Boston round bottle with tether.

24 The second question, which is No. 15, let me
25 read through that. The No. 15 is same answer. We can

1 create a different alternative configuration of the
2 bottle, but this is not a Boston round bottle in a
3 laboratory.

4 We can -- we can actually make a mold for it,
5 but people who like to have a Boston round narrow-mouth
6 bottle with tether cannot -- we cannot sell this Boston
7 round bottle with tether anymore if Nalgene got this
8 trademark. There are many designs can be -- can be
9 designed, applied to the bottle we want to be, like the
10 swirl bottle, the crystal-cut bottle. That's different
11 story.

12 But we want to introduce the Boston round
13 bottle with tether, and it seems like -- like Nalgene is
14 going to apply a trademark for Boston round bottle with
15 tether. Nobody else has a -- a laboratory bottle
16 manufacturer can't do Boston round bottle with tether
17 anymore.

18 Q Referring your attention to Exhibit 19, how
19 much does TriForest sell that bottle for?

20 MR. CHENG: Objection; it's confidential.

21 MR. SCHATZ: We can designate the transcript
22 confidential. That's fine. I won't tell anybody.

23 Q BY MR. SCHATZ: How much does that sell for?

24 A It really depends on volume. It's company
25 confidential. We have a chart.

1 Q Let's say it's an order of a thousand bottles
2 or more.

3 How much does that bottle sell for per bottle?

4 MR. CHENG: Well, we are still maintaining our
5 confidentiality.

6 MR. SCHATZ: Are you instructing the witness
7 not to answer?

8 THE WITNESS: No, actually I --

9 MR. SCHATZ: I want to hear from Mr. Cheng.

10 Are you instructing the witness not to answer
11 on the basis of alleged confidential information?

12 MR. CHENG: What would be the problem with
13 that?

14 MR. SCHATZ: Because I want to know the answer.
15 You know very well you cannot instruct a witness not to
16 answer unless there's a question of privilege, and
17 there's no privilege associated here. If you want to
18 designate this portion of the transcript confidential, go
19 ahead and do it. That's fine. But I'm entitled to ask
20 that question.

21 MR. CHENG: Maybe we could just -- I think
22 we've already stipulated that the cost is basically the
23 same as Nalgene.

24 MR. SCHATZ: Okay.

25 MR. CHENG: Didn't we already stipulate that?

1 THE WITNESS: Yeah.

2 MR. CHENG: That it's basically the same.

3 Q BY MR. SCHATZ: Okay. So are we saying that
4 we're stipulating on the record that the cost of
5 manufacturing the bottle depicted in Exhibit 19 is the
6 same as the cost to manufacture -- actually, strike that.

7 You're going to concede on the record that the
8 bottle depicted in Exhibit 19 is no more expensive to
9 manufacture than Nalgene's narrow-mouth bottle?

10 A No, it's more expensive to make, but we have to
11 sell the same price because we are -- it's market
12 competition. We can't -- we can't sell as premium.

13 Q Okay. Now, I'm going to need to ask you about
14 those comments.

15 MR. CHENG: Well, I talked with -- can we go
16 off the record?

17 MR. SCHATZ: That's fine.

18 (Discussion between counsel, not reported.)

19 MR. CHENG: Do you want to stipulate as to that
20 point, the fixed cost you're alleging are higher?

21 THE WITNESS: There's a little bit different.
22 The molding type for this shape is longer than the
23 regular cylindrical shape.

24 MR. CHENG: I don't know.

25 THE WITNESS: Are you talking about this

1 (indicating), not this (indicating)?

2 MR. CHENG: Right, right.

3 THE WITNESS: This is longer.

4 MR. CHENG: Oh, okay. Well, then you would
5 have to answer with regard to cost.

6 THE WITNESS: The cost is higher because --

7 Q BY MR. SCHATZ: Let me ask my question.

8 MR. CHENG: You will answer that question.

9 THE WITNESS: Yes.

10 Q BY MR. SCHATZ: We're referring to the bottle
11 depicted in Exhibit 19.

12 You believe that the per unit cost to
13 manufacture that bottle is more expensive than it is to
14 manufacture Nalgene's bottle?

15 A Yes.

16 Q Okay. What knowledge do you have of the cost
17 of manufacturing Nalgene's bottle?

18 A On the manufacturing side, the manufacturing
19 cost based on the molding cycle. If we -- let's say we
20 can produce two bottle per minute with this, we produce
21 only -- well, just let's say we produce two bottle per 40
22 second with the cylindrical shape.

23 With this, we need -- we need one minute to
24 produce the two bottle because this has undercut shape,
25 the mold open require more time, slow opening, slow

1 opening. And per the production rate per day, this is
2 actually smaller than the cylindrical bottle.

3 Q Because of the indentations?

4 A Yes.

5 Q How much does Exhibit 19 sell for on an order
6 of a thousand or more?

7 A I cannot refuse to answer the number?

8 MR. CHENG: Well, then you wouldn't have any
9 evidence to back up your statement.

10 Q BY MR. SCHATZ: So are you going to concede on
11 the record you're not going to offer evidence as to the
12 cost or the amount to sell this bottle?

13 MR. CHENG: Why don't we just stipulate that
14 they basically could because he said that they have to
15 sell it as the same as Nalgene?

16 Q BY MR. SCHATZ: Okay. So you're saying that
17 the bottle depicted in Exhibit 19 is sold at the same
18 price as Nalgene's narrow mouth?

19 A Well, this is a wide mouth. We are not talking
20 apples to apples.

21 Q I'm talking about Nalgene's narrow mouth.

22 A This is wide mouth.

23 Q I understand. I understand.

24 My question to you is: Are you saying that
25 Exhibit 19 is sold at the same price as Nalgene's

1 narrow-mouth bottle?

2 A I don't know how much Nalgene sell.

3 Q Okay. How much does this bottle sell for,
4 Exhibit 19, on a quantity of a thousand or more?

5 MR. CHENG: If you know.

6 THE WITNESS: I know, but should I give this
7 information to Nalgene? That's my --

8 MR. CHENG: They probably have it.

9 THE WITNESS: It's -- it's confidential. I
10 don't know Nalgene's cost.

11 Q BY MR. SCHATZ: Are you refusing to answer the
12 question?

13 A Yes.

14 Q I think that's inappropriate, and I'll just
15 make a note for the record. I'm assuming your position
16 is going to be the same with respect to the bottle
17 depicted in Exhibit 20? You'll refuse to answer the
18 question as to how much that bottle was sold for?

19 A Yes.

20 Q And are you also going to refuse to answer
21 questions related to exactly how much it cost per unit to
22 manufacture those bottles?

23 A Yes, I refuse that.

24 MR. CHENG: You already answered those
25 questions, though.

1 THE WITNESS: I say it's more expensive than
2 the cylindrical bottle.

3 MR. CHENG: But the precise numbers you are not
4 willing to give.

5 THE WITNESS: I don't give the precise number.

6 Q BY MR. SCHATZ: So just to clarify for the
7 record, then, you are going to refuse to answer my
8 questions related to the sales price of the bottles
9 depicted in Exhibits 19 and 20?

10 A Uh-huh.

11 Q Correct?

12 A Correct.

13 Q And you're also going to refuse to answer my
14 questions related to the cost to manufacture the bottles
15 depicted in Exhibits 19 and 20?

16 A Yes.

17 MR. SCHATZ: Just to note for the record, I
18 believe that's completely inappropriate, and we'll go
19 forward. And I'm going to reserve my right to seek that
20 information.

21 Q BY MR. SCHATZ: Are you aware of any plastic
22 bottles sold by Owens-Illinois or Brockaway Glass?

23 A Yes.

24 Q And which ones are those?

25 A The Boston round bottle, glass bottle.

1 Q Those have sold as plastic bottles?

2 A I'm not sure.

3 Q So my question again is: Are you aware of any
4 plastic bottles sold by Owens-Illinois or Brockaway
5 Glass?

6 A No, I think they are the glass bottle
7 manufacturer.

8 Q Okay. So the answer is you don't know, then?

9 A Yes.

10 Q Referring to Exhibit 19 -- I apologize. I'm
11 sorry.

12 Referring to Exhibit 21, can you just identify
13 for the record that those are TriForest response to
14 Nalgene's request for admissions?

15 A Yes.

16 Q I'm going to pass to you what has been marked
17 as Exhibit 22.

18 (Opposer's Exhibit 22 was marked for
19 identification by the court reporter
20 and is attached hereto.)

21 Q BY MR. SCHATZ: Will you agree with me that the
22 bottle depicted in Exhibit 22 has a convex shape to it?

23 A Yes, it's different shape. It's not
24 cylindrical.

25 Q And will you agree with me that there is an

1 indentation or a lip about halfway up the bottle?

2 A Yes.

3 Q Will you also agree with me that the shoulder
4 is not rounded like the mark sought by Nalgene?

5 A Yes.

6 Q Do you believe that Exhibit 22 would fall
7 within the scope of the mark sought by Nalgene?

8 A No, because it's not Boston round bottle.

9 Q Would you agree that this Exhibit 22 is equally
10 as functional as the bottle mark sought by Nalgene?

11 A Actually, with this angle, we are -- around the
12 edge, it create a pressure concentration on the edge of
13 90 degree. When they drop the bottle, most likely it
14 will break from the shoulder part.

15 Q Have you ever done any testing on whether or
16 not that battle on Exhibit 22 would break?

17 A We have done the test on this bottle, which is
18 our diamond-cut bottle. Initially, it was bent at
19 90 degree, and it break from there. That's why we need
20 to make modification. Any bottle with that we are going
21 to have the same problem.

22 Q Okay. So the bottle depicted in Exhibit
23 22 -- or 20, I apologize, the bottle depicted in Exhibit
24 20, that does not suffer from breaking problems? You
25 solved that problem?

1 A We solved the problem. Now, the original
2 design, we do have a problem because we have similar
3 design, like 90-degree angle folded with no (indicating)
4 along the edge.

5 Q I'll pass to you what has been marked as
6 Exhibit 23.

7 (Opresenter's Exhibit 23 was marked for
8 identification by the court reporter
9 and is attached hereto.)

10 Q BY MR. SCHATZ: Will you agree with me that the
11 bottle depicted in Exhibit 23 does not fall within the
12 scope of the mark sought by Nalgene?

13 A No, it's a unique design with flexible body and
14 tether cap. It's not a Boston -- Boston round bottle
15 with tether cap, so it will not.

16 Q Is it your position that Exhibit 23 is at least
17 as equally functional as a water bottle than the mark
18 sought by Nalgene?

19 A It's obviously in the middle it's very weak.
20 If you drop it or hikers drop it, it's going to break.

21 Q Your position is that the bottle depicted in
22 Exhibit 23 is going to break more readily than the bottle
23 sought by -- the mark sought by Nalgene?

24 A Yes.

25 Q Have you done any testing on that?

1 A I don't, but I can see they use soft plastic in
2 the middle. It's not as durable as polycarbonate.

3 Q Okay. So just to confirm, you have not done
4 any testing on that?

5 A I don't done any testing. But the material, I
6 can see from the picture, is not as durable as the
7 polycarbonate.

8 Q Mr. Lin, I'm passing you what's been marked as
9 Exhibit 24.

10 (Opporter's Exhibit 24 was marked for
11 identification by the court reporter
12 and is attached hereto.)

13 Q BY MR. SCHATZ: What are the indentations for
14 in the bottle depicted in Exhibit 24?

15 A For gripping and create a design of the bottle
16 not to be cylindrical because Nalgene has the wide-mouth
17 cylindrical trademark already granted.

18 Q Will you agree with me that the bottle depicted
19 in Exhibit 24 does not fall within the scope of the mark
20 sought by Nalgene in this matter?

21 A No, it's not Boston round bottle.

22 Q And is the bottle depicted in Exhibit 24
23 equally as functional as the bottle sought by Nalgene?

24 A It's different. This is the wide mouth. The
25 wide mouth is not easy to drink. Narrow mouth is easier

1 to drink. Wide mouth, you've got the splash. Most
2 likely, if you put ice cube in there, it would come out.
3 So it's not as same function as Nalgene narrow-mouth
4 bottle.

5 Q Why do you believe that Nalgene should not be
6 awarded a mark on the mark that it seeks in this
7 opposition?

8 A If Nalgene create an indent on side and want to
9 trademark it, I actually agree. But if they don't do any
10 changes, just a laboratory bottle, a regular Boston round
11 bottle with tether cap, this is a public domain product.
12 Everybody use Boston round. Boston round with tether, of
13 course, should not be trademarked just like a tire. Like
14 a tire chain cannot be trademarked.

15 Q Is that the only reason?

16 A Yes.

17 Q Because it's been used in the past?

18 A Yes.

19 Q And any other reasons why?

20 A The shape is not -- the shape is very commonly
21 used and the tether is just functional application. And
22 many people like to use that in laboratory as well. With
23 this mark passed, nobody can do this application anymore.

24 Q Okay. You just said a couple different things.
25 You first told me that the only reason why Nalgene

1 shouldn't be awarded this mark is because it's doing
2 something that you allege to be in the public domain.

3 A Uh-huh.

4 Q Is that correct?

5 A I didn't say only. I said there are many
6 reason we believe Nalgene should not get this mark.

7 Q Okay. And I want to know all of the reasons
8 why.

9 A Okay.

10 Q Please list them for me.

11 A Okay. The first reason, Boston round
12 not -- it's a public domain bottle with cylindrical shape
13 without any indentation or any design, just a cylindrical
14 bottle, Boston round bottle, should not be a trademark.
15 It's -- it's been used for many years.

16 Even with the tether cap, it's application
17 attached to a Boston round, this cannot be trademarked.
18 We are talking about a shape. We are not talking about a
19 market in different -- in laboratory or outdoor or
20 anything like that.

21 Q Is that the only reasons why Nalgene should not
22 get this mark?

23 A This is the reason, yes.

24 Q Mr. Lin, I'm going to pass to you what has been
25 marked as Exhibit 25.

1 (Opposer's Exhibit 25 was marked for
2 identification by the court reporter
3 and is attached hereto.)

4 Q BY MR. SCHATZ: If you turn to the bottom of
5 page 2.

6 A Okay.

7 Q You state under oath, "The old TriForest bottle
8 has a different arch angle, cap design."

9 A Which paragraph?

10 Q At the very bottom of page 2.

11 MR. CHENG: And the top of page 3.

12 THE WITNESS: Oh, okay.

13 Q BY MR. SCHATZ: Do you see that?

14 A Yes.

15 Q Okay. What old TriForest bottle are you
16 referring to?

17 A We have the exhibit.

18 MR. CHENG: Let me get you the exhibit. Hold
19 on. Here's Exhibit 1.

20 THE WITNESS: It's Exhibit 1. The TriForest
21 bottle, you can see the shoulder has a lot of slope and
22 cap is completely different than Nalgene. We have a
23 larger grip, and Nalgene has very fine strength of grip,
24 and plus, the Nalgene logo on Nalgene bottle as well.

25 Q BY MR. SCHATZ: So is it your position that the

1 TriForest bottle to the left of Exhibit 1 does not fall
2 within the scope of the mark sought by Nalgene?

3 A It's hard to say because it's a Boston round
4 bottle with tether cap. And my opinion, it doesn't
5 infringing or even affect Nalgene's mark. But I don't
6 think Nalgene should get a mark for a Boston round
7 bottle. It's Boston round compared to Boston round in
8 different mold.

9 Q So you agree with me, then, that it's your
10 opinion that the TriForest bottle depicted in the left in
11 Exhibit 1 does not fall within the scope sought by
12 Nalgene; is that correct?

13 A If you speak narrowly, look closely, yes, it's
14 not affect Nalgene's mark. But if you look at the
15 Boston -- Boston round bottle with tether cap will fall
16 into this mark, I don't know.

17 Q Turning to page 4 of Exhibit 25, you make a
18 reference to the Bomatic website.

19 Do you see that?

20 A Yes.

21 Q Are you making that reference because Bomatic
22 sells a bottle with a diameter to height ratio of .47?

23 A Yes, it's a Boston round dimension.

24 Q Okay. I'll pass to you what's been marked as
25 Exhibit 26.

1 (Opposer's Exhibit 26 was marked for
2 identification by the court reporter
3 and is attached hereto.)

4 Q BY MR. SCHATZ: Mr. Lin, will you agree with me
5 that Bomatic offers for sale numerous bottles that do not
6 have a diameter to height ratio that is similar to .4?

7 A Yes, that's why they call modified cylindrical
8 round bottle. They don't call it Boston round bottle.

9 Q Right.
10 So you agree with me?

11 A Yes.

12 Q I'm just curious as to why you just selected
13 one printout from that website and failed to disclose to
14 the trademark the word that, in fact, that there are
15 numerous bottles sold by Bomatic that don't have a .4
16 ratio?

17 A Yes, they have a modified cylinder round
18 bottle, but they don't call it Boston round bottle.

19 Q Right.
20 So why didn't you disclose these other Bomatic
21 bottles to the trademark board?

22 A Because we were searching Boston round bottle.
23 That what we come up with in search for modified cylinder
24 round.

25 Q So you just picked the ones that supported your

1 case but didn't show the trademark board those that did
2 not; is that correct?

3 A We --

4 MR. CHENG: Objection; calls for a legal
5 conclusion.

6 You're not a lawyer, Steve.

7 THE WITNESS: Yeah.

8 MR. CHENG: We're on Exhibit 26.

9 Q BY MR. SCHATZ: Referring to Exhibit 25 at the
10 top of the last page, you provide an example of a Mayfair
11 Plastics bottle that has a diameter to height ratio of
12 about .5?

13 A Uh-huh.

14 Q Are there other Mayfair plastic bottles that do
15 not have a diameter to height ratio similar to .5?

16 A I don't know because we only search Boston
17 round bottle.

18 MR. CHENG: Do you want to see Exhibit 9,
19 Steve?

20 THE WITNESS: Yes.

21 Q BY MR. SCHATZ: Well, here, I'll make it easy
22 for you, Mr. Lin. I'm going to pass to you what has been
23 marked as Exhibit 27.

24 (Opposer's Exhibit 27 was marked for
25 identification by the court reporter

1 and is attached hereto.)

2 Q BY MR. SCHATZ: Mr. Lin, will you agree with me
3 that there are numerous Mayfair plastic bottles that have
4 a diameter to height ratio that is different than .5?

5 A Yes, they are wide mouth. Some of them are
6 wide mouth jar. They don't call it Boston round. Of
7 course, it's different. Some of them is tall bottle
8 called Boston round, and one mouth bigger. So they are
9 different design, but it's not a typical Boston round.
10 The Boston round is in this exhibit, the second page.

11 Q To ask my question again --

12 A Sure.

13 Q -- you'll agree with me that there are Boston
14 round bottles sold by Mayfair Plastics that do not have a
15 .4 ratio between diameter and height?

16 A Yes, it's not a typical Boston round. It's a
17 tall Boston round. Again, it's modeled by Boston round
18 bottle. Some of them are wide mouth jar. It's not
19 considered a Boston round bottle.

20 Q Mr. Lin, I'm going to pass to you what has been
21 mark as Exhibit 28.

22 (Opposer's Exhibit 28 was marked for
23 identification by the court reporter
24 and is attached hereto.)

25 Q BY MR. SCHATZ: Do you agree with me that

1 Exhibit 28 has a tether?

2 A Yes.

3 Q And it has a cap?

4 A Yes.

5 Q And it has a cap that remains connected to the
6 bottle when it's removed?

7 A Yes.

8 Q Can it hold water?

9 A Yes.

10 Q Is it plastic?

11 A Yes.

12 Q Is it transparent?

13 A No.

14 Q Does it have a neck?

15 A Yes.

16 Q You agree with me that at the bottom of the
17 bottle depicted in Exhibit 28 that there is a step or a
18 lip?

19 A Yes.

20 Q And what's the purpose of that?

21 A I don't know.

22 Q No clue?

23 A Probably fits on the cup holder, maybe.

24 Q Do you agree with me that there's a central
25 portion of the bottle that is set apart from the other

1 portions of the bottle with printing on it?

2 A Yes, they are. It's a separate part, separate
3 plastic part.

4 Q Would you agree with me that the bottle
5 depicted in Exhibit 28 is equally as functional as the
6 mark sought by Nalgene?

7 A No, it's not as durable. It's a -- it's a
8 composite of different plastic. It cannot be as durable
9 as one piece.

10 Q Have you ever seen this bottle?

11 A No, I don't see it personally.

12 Q When you say that, you're just surmising, then,
13 that the bottle depicted in 28 is not as functional as
14 the mark sought by Nalgene?

15 A Because it's made by a cheaper plastic, and
16 it's made by -- I think -- I don't know how they join,
17 maybe use spool or something like that. It's definitely
18 a weaker bottle than the Nalgene bottle.

19 Q Mr. Lin, I will pass to you what has been
20 marked as Exhibit 29.

21 (Opposer's Exhibit 29 was marked for
22 identification by the court reporter
23 and is attached hereto.)

24 Q BY MR. SCHATZ: Would you agree with me that
25 the bottle depicted in Exhibit 29 does not fall within

1 the scope of the claim --

2 A Yes.

3 Q -- mark sought by Nalgene?

4 A I agree.

5 Q And you agree with me that that bottle has a
6 tether?

7 A Yes.

8 Q And a cap?

9 A Yes.

10 Q And the cap, then, remains connected to the
11 bottle when it's removed?

12 A Yes.

13 Q Can it hold water?

14 A Yes.

15 Q Does it have a neck?

16 A Yes.

17 Q Would you agree with me that the cap is more
18 rounded than that displayed in the mark sought by
19 Nalgene?

20 A Yes.

21 Q Would you also agree with me that the slope of
22 the shoulder is more pronounced than that of the mark
23 sought by Nalgene?

24 A Yes, because it's a arc. It's like an arc
25 between the straight wall and the -- what they call

1 conical shape joined with the straight wall to create an
2 arc on the side.

3 Q Right.

4 And would you agree with me that the bottle
5 depicted in Exhibit 29 is equally as functional as the
6 bottle depicting the mark sought by Nalgene?

7 A It's a square bottle. It's not as strong as
8 the cylindrical bottle. Other than that, they should be
9 the same.

10 Q I'm going to pass to you what has been marked
11 as Exhibit 30.

12 (Opposer's Exhibit 30 was marked for
13 identification by the court reporter
14 and is attached hereto.)

15 Q BY MR. SCHATZ: Would you agree with me that
16 the bottle depicted in Exhibit 30 does not fall within
17 the scope of the mark sought by Nalgene?

18 A Yes.

19 Q And that also has a tether, correct?

20 A Yes.

21 Q It has a cap?

22 A Yes.

23 Q It has a cap that remains connected to the
24 bottle when it's removed?

25 A Yes.

1 Q It can hold water?

2 A Yes.

3 Q Does it have a neck?

4 A Yes.

5 Q Would you agree with me that the cap of the
6 bottle depicted in Exhibit 30 is not similar to the
7 Nalgene mark?

8 A No, because it has a different length. It's a
9 wide mouth neck, not 38 by 430.

10 Q Would you also agree with me that the bottom of
11 the bottle depicted in Exhibit 30 does not have a rounded
12 curvature like the mark sought by Nalgene?

13 A Yes.

14 Q And the same is true for the shoulder?

15 A Yes.

16 Q Would you agree with me that the bottle
17 depicted in Exhibit 30 is equally as functional as the
18 mark sought by Nalgene?

19 A No.

20 Q Why not?

21 A Because it doesn't have the rounded shoulder,
22 rounded base. And if you drop it, you have pressure
23 concentration, stress concentration point.

24 Q Have you ever done any testing on that point?

25 A No, but we've done many experiment on

1 our -- when we do the bottle development.

2 Q Do you have any evidence of that testing to
3 offer to me today?

4 A Not today, but I do have evidence. We have a
5 prototype that was broken.

6 MR. SCHATZ: Here is Exhibit 31.

7 (Opposer's Exhibit 31 was marked for
8 identification by the court reporter
9 and is attached hereto.)

10 Q BY MR. SCHATZ: Would you agree with me that
11 the bottle depicted in Exhibit 31 does not fall within
12 the scope of the mark sought by Nalgene?

13 A It's not for this one, but it is for the other
14 one.

15 Q I'll ask my question again, Mr. Lin.

16 Would you agree with me that the bottle
17 depicted in Exhibit 31 does not fall within the scope of
18 the mark sought by Nalgene in this opposition?

19 A Yes.

20 Q Would you agree with me that the bottle
21 depicted in Exhibit 31 has a cap?

22 A Yes.

23 Q And a tether?

24 A Yes.

25 Q And it has a cap that remains attached to the

1 bottle when it's removed?

2 A Yes.

3 Q Can it hold water?

4 A Yes.

5 Q Does it have a neck?

6 A Yes.

7 Q Would you agree with me that the bottom of the
8 bottle depicted in Exhibit 31 is not rounded like the
9 bottle in the mark sought by Nalgene?

10 A It is rounded. I don't agree. It is rounded.

11 Q Okay. So you agree or it's your opinion that
12 the bottle depicted in Exhibit 31 has a bottom that's
13 similar to the mark sought by Nalgene in this opposition?

14 A Yes.

15 Q Do you believe that the bottle depicted in
16 Exhibit 31 falls within the scope of the mark --

17 A No.

18 Q -- sought by Nalgene?

19 A No, this is a wide-mouth bottle.

20 Q So a wide-mouth bottle is different looking
21 than the mark sought by Nalgene in this opposition?

22 A Yes, Nalgene is a narrow-mouth Boston round.
23 This is a wide-mouth jar.

24 Q Would you agree with me that the tether that is
25 the top portion of the tether does not attach to the top

1 of the cap of the bottle depicted in Exhibit 31?

2 A It is attached to the cap. So when you spin
3 the cap or rotate the cap, the tether will go with it.

4 Q Do you believe that the bottle depicted in
5 Exhibit 31 has a cap that can rotate through the top
6 annular ring?

7 A Yes.

8 Q So it can rotate?

9 A It cannot rotate. It will rotate -- the tether
10 will be rotating with the cap.

11 Q So you believe the cap cannot be rotated
12 independently of the top ring?

13 A Yes.

14 Q Have you ever looked at this physical bottle?

15 A Yes, I saw in Costco. That's it.

16 MR. CHENG: Oh, what do you know, you were
17 right.

18 THE WITNESS: It does go with it.

19 Q BY MR. SCHATZ: Mr. Lin, I'm going to show you
20 what's been marked as --

21 A It go with it. If you don't hold it, it go
22 with it.

23 Q Sir, there's no pending question.

24 MR. CHENG: Maybe we should just take a picture
25 of that. Oh, right.

1 Q BY MR. SCHATZ: Mr. Lin, I've marked a bottle
2 as Exhibit 32.

3 And do you still maintain your position that
4 the cap of this bottle cannot rotate independently of the
5 top annular ring?

6 A If a person doesn't hold the tether -- it -- it
7 is attached to the cap. Unless you hold the tether, then
8 the cap can move independently.

9 Q So the answer to my question is: It can move
10 independently?

11 A It can move independently unless you hold the
12 cap -- the tether.

13 Q With respect to Exhibit 33, do you believe that
14 the bottle depicted in Exhibit 33 falls within the scope
15 of the mark sought by Nalgene?

16 A Yes.

17 Q You do believe it does?

18 A It doesn't.

19 Q So just to clarify for the record, you do not
20 believe that the bottle depicted in Exhibit 33 falls
21 within the scope of the mark sought by Nalgene?

22 A Yes.

23 Q Why not?

24 A It's not a Boston round bottle. It's a
25 wide-mouth jar with design. It's not a straight roll.

1 It's not a cylindrical bottle. It's with a design on the
2 west and some indentation on the side for gripping.

3 Q So for all those reasons, it does not fall
4 within the scope of the mark sought by Nalgene?

5 A Yes.

6 Q And what about the tether?

7 A The tether is three pieces. They have one
8 ring, the tether, and the tether joined to the cap. So
9 it's -- it's different than Nalgene.

10 Q Any other reasons why the bottle depicted in
11 Exhibit 33 is not within the scope of the mark sought by
12 Nalgene?

13 A It's wide mouth. It's not narrow mouth.

14 Q Is the bottle depicted in Exhibit 33 equally as
15 functional as the bottle mark sought by Nalgene?

16 A Yes.

17 Q I'm going to pass to you what has been marked
18 as Exhibit 34.

19 (Opposer's Exhibit 34 was marked for
20 identification by the court reporter
21 and is attached hereto.)

22 MR. CHENG: Hold on one moment. I need to
23 write down these things. Thanks. I lost my Exhibit 30.
24 What was that? Did someone take my Exhibit 30?

25 MR. SCHATZ: Let's go off the record.

1 (Discussion between counsel, not reported.)

2 Q BY MR. SCHATZ: Mr. Lin, looking at the bottle
3 depicted in Exhibit 34, do you believe that those bottles
4 fall within the scope of the mark sought by Nalgene?

5 A Not this one.

6 Q And why not?

7 A Nalgene has the other trademark is above this,
8 and they are actually infringing.

9 Q I'm sorry. Say that again.

10 A Nalgene has another trademark for wide-mouth
11 jar and just like this one.

12 Q That may be the case.

13 But my question is this: Do the bottles
14 depicted in Exhibit 34 fall within the scope of the mark
15 sought by Nalgene in this matter?

16 A No, no, this is wide-mouth jar.

17 Q Any other reasons other than the fact that
18 these are wide-mouth jars?

19 A Because the mouth is much wider than the Boston
20 round bottle.

21 Q What about the fact that the tether does not
22 connect to the top of the cap?

23 A It is connect to the top -- not the top, yeah,
24 it's not on the top of the cap.

25 Q So the bottles depicted in Exhibit 34 do not

1 fall within the scope of the mark sought by Nalgene
2 because the top ring does not attach to the top of the
3 cap?

4 A Yes.

5 Q Mr. Lin, I've pass you what's been marked as
6 Exhibit 35.

7 (Opposer's Exhibit 35 was marked for
8 identification by the court reporter
9 and is attached hereto.)

10 Q BY MR. SCHATZ: Do you believe the bottle
11 depicted in Exhibit 35 falls within the scope of the mark
12 sought by Nalgene?

13 A No.

14 Q And do you believe that the bottle depicted in
15 Exhibit 35 is equally as functional as the bottle mark
16 sought by Nalgene?

17 A No.

18 Q Why not?

19 A This one got the -- this one has got a more
20 functional cap. It has got a straw, I believe. I can't
21 tell from the picture, but I assume it has a straw. And
22 the bottle itself is made by aluminum, I believe. So
23 it's not a plastic bottle.

24 Q Okay. You said that the bottle depicted in
25 Exhibit 35 has a more functional cap?

1 A I believe -- I can't tell from this drawing,
2 but I believe so because it has a cap for --

3 MR. CHENG: Let me see.

4 THE WITNESS: It's very complicated design.

5 Q BY MR. SCHATZ: Is it a better cap than the
6 Nalgene mark?

7 A It's more fancy cap but not necessarily better.

8 Q Well, what's your opinion on the function of
9 this bottle versus the bottle sought by Nalgene?

10 A This is actually for kids, like school bottle,
11 bring it to school, not design for the outdoor hiker.

12 Q Does the bottle depicted in Exhibit 35 function
13 equally or as better than the bottle sought by Nalgene?

14 A They are a different market, different purpose.
15 I can't tell it's equal or it's totally compare two
16 different products.

17 Q So you can't answer the question?

18 A I can't answer the question.

19 Q Okay. But you'll agree with me that the bottle
20 depicted in Exhibit 35 does not fall within the scope of
21 the mark sought by Nalgene?

22 A Yes.

23 Q And why is that?

24 A It's totally different shape. It's not
25 transparent. It's made of aluminum. It's -- the cap

1 design is very fancy. I don't know what the detail but I
2 assume they are more functioning.

3 Q Would you agree with me that a domed cap like
4 that depicted in Exhibit 35 would cause a bottle not to
5 fall within the scope of the mark sought by Nalgene?

6 A Yes.

7 Q Would you agree with me that a tether that is
8 relatively very short compared to that sought by
9 Nalgene --

10 A The tether --

11 Q Sir, let me finish my question.

12 A Okay.

13 Q Just so we're clear for the record.

14 Would you agree with me that the tether
15 associated with the bottle in Exhibit 35 is short such
16 that it would not fall within the scope of the mark
17 sought by Nalgene?

18 A Yes, but this is a tether of the beak of the
19 cap. It's not the tether of the cap. So we are talking
20 about different -- different product.

21 Q So the answer to my question is "yes"?

22 A Yes.

23 Q Mr. Lin, I'll show you Exhibit 36.

24 (Opposer's Exhibit 36 was marked for
25 identification by the court reporter

1 and is attached hereto.)

2 Q BY MR. SCHATZ: Do you believe that the bottle
3 depicted in Exhibit 36 falls within the scope of the mark
4 sought by Nalgene?

5 A No.

6 Q Why not?

7 A They are not Boston round. This is a military
8 container.

9 Q Right.

10 So the shape of the body portion is
11 sufficiently different so it does not fall within the
12 scope of the Nalgene mark?

13 A Right.

14 Q And what about the design of the cap?

15 A It's totally different.

16 Q Than that of the Nalgene mark?

17 A Yes.

18 Q And what about the tether?

19 A It's different, too.

20 Q Such that it doesn't fall within the scope of
21 the Nalgene mark?

22 A Yes.

23 Q Do you believe that the bottle marked as
24 Exhibit 36 performs functionally equally as well as the
25 mark sought by Nalgene?

1 A The bottle already collapse on the picture, so
2 it's not as durable as Nalgene bottle.

3 MR. CHENG: But it's designed to collapse.

4 THE WITNESS: So this is different. The
5 Nalgene bottle is to be durable, unbreakable, not
6 collapsing. So it is not equally.

7 Q BY MR. SCHATZ: Well, if it were desirable for
8 a bottle to be able to collapse for storage, would it not
9 be true, then, that the bottle depicted in Exhibit 36 has
10 a function that is better than of a bottle sought by
11 Nalgene?

12 A No, this is a different purpose. It's not
13 there -- and besides, the material they use on this
14 bottle is not safe to use for water storage.

15 Q First of all, I'm going to assume that you're
16 being non-responsive to that question --

17 A Okay.

18 Q -- because you didn't responded to my
19 question.

20 A Okay.

21 Q Okay. What I'm asking you is: If a consumer
22 desired a bottle to be collapsable, is it not true that
23 the bottle depicted in Exhibit 36 would have at least one
24 function better than the bottle mark sought by Nalgene?

25 A Yes.

1 Q Mr. Lin, I'm going to pass to you a series of
2 photographs that have been marked as Exhibit 37.

3 (Opposer's Exhibit 37 was marked for
4 identification by the court reporter
5 and is attached hereto.)

6 MR. CHENG: Can I see that?

7 THE WITNESS: It doesn't look same. It doesn't
8 make sense. It's just more and more bottle with
9 different mark. It's not the same bottle.

10 Q BY MR. SCHATZ: Mr. Lin, you're having a little
11 discussion with either Mr. Rehan or Mr. Cheng.

12 But my understanding of what you said is that
13 Exhibit 37 looks different?

14 A Yes.

15 Q What does it look different than?

16 A It's not a cylindrical bottle. It's not Boston
17 round bottle. It's more like a military container.

18 Q So is it your opinion that the bottle depicted
19 in Exhibit 37 would not fall within the scope of the mark
20 sought by Nalgene?

21 A No.

22 Q Does the bottle depicted in Exhibit 37 function
23 equally as well as a water bottle than the mark sought by
24 Nalgene?

25 A This is probably not as durable as a

1 cylindrical bottle. That's all I can say, but anything
2 else would be the same.

3 Q Are you guessing at the durability of the
4 bottle depicted in Exhibit 37?

5 A It's based upon my knowledge. The cylindrical
6 bottle is strongest design for the bottle. It's not
7 guessing.

8 Q Okay. So that's the only functional difference
9 you see is that the bottle depicted in Exhibit 37 may not
10 be as durable?

11 A Yes.

12 Q You'll agree with me that the bottle depicted
13 in Exhibit 37 has a tether?

14 A Yes.

15 Q That it has a cap?

16 A Yes.

17 Q And it has a cap that remains connected to the
18 bottle when it's removed?

19 A Yes.

20 Q That it can hold water?

21 A Yes.

22 Q That it's plastic?

23 A Yes.

24 Q That it's transparent?

25 A Yes.

1 Q That it has a neck?

2 A Yes.

3 Q Mr. Lin, I'm going to pass to you a series of
4 photographs that have been marked as Exhibit 38.

5 (Opposer's Exhibit 38 was marked for
6 identification by the court reporter
7 and is attached hereto.)

8 Q BY MR. SCHATZ: Would you agree with me that
9 the bottle depicted in Exhibit 38 does not fall within
10 the scope of the mark sought by Nalgene?

11 A Yes.

12 Q Would you agree with me that the bottle
13 depicted as Exhibit 38 is equally as functional as a
14 water bottle than the bottle mark sought by Nalgene?

15 A Well, this is a squeezable bottle. You can
16 squeeze the bottle when you're riding a bike. This is a
17 squeezable bottle.

18 Q That's correct.

19 A Nalgene bottle cannot be squeezed.

20 Q Any other comments on that question?

21 A There's no tether. It has the small spout for
22 drinking.

23 Q Yeah, that's a good point.

24 The bottle in Exhibit 38 doesn't require a
25 tether, correct?

1 A Yes.

2 Q It utilizes a hinge mechanism?

3 A Yes.

4 Q But at the same point, the cap still remains
5 attached to the bottle when the cap is removed?

6 A This is not the cap of the bottle. This is cap
7 of the -- the lid of the cap. It's not the cap of the
8 bottle.

9 Q I'm sorry. What did you say?

10 A This is the lid of the bo- -- the cap. It's
11 not a cap of the bottle.

12 Q Okay. What term did you use for that?

13 A Lid of the cap.

14 Q Fair enough.

15 Is it fair to say that the lid remains attached
16 to the bottle even when it's opened?

17 A Yes.

18 Q And it does that through a hinge mechanism?

19 A Yes.

20 Q And that way it doesn't require a tether?

21 A Yes.

22 Q And so in that way it looks different than the
23 bottle mark sought by Nalgene?

24 A Yes.

25 Q Mr. Lin, here is Exhibit 39.

1 (Opposer's Exhibit 39 was marked for
2 identification by the court reporter
3 and is attached hereto.)

4 Q BY MR. SCHATZ: Would you agree with me that
5 Exhibit 39 does not fall within the scope of the mark
6 sought by Nalgene?

7 A Yeah.

8 MR. CHENG: Hold on.

9 THE WITNESS: It's not a Boston round bottle.
10 It's not -- it doesn't -- it doesn't fall in the scope,
11 no.

12 Q BY MR. SCHATZ: And would the bottle depicted
13 in Exhibit 39 function equally as well as a water bottle
14 than the bottle mark sought by Nalgene?

15 A Probably, yes.

16 Q I'll pass to you what has been marked as
17 Exhibit 40.

18 (Opposer's Exhibit 40 was marked for
19 identification by the court reporter
20 and is attached hereto.)

21 Q BY MR. SCHATZ: Would you agree with me that
22 the bottle depicted in Exhibit 40 does not fall within
23 the scope of the mark sought by Nalgene?

24 A Yes.

25 Q And why not?

1 A It's not a Boston round bottle. It's -- it's
2 with many design, many indentation.

3 Q So part of the reason is because it has an
4 indentation?

5 A It has indentation. It doesn't use the lap in
6 the neck. It's some other neck.

7 Q Do you believe that the manner in which the top
8 tether is attached to the top of the cap --

9 A Yes.

10 Q -- of Exhibit 40 makes Exhibit 40 such that it
11 does not fall within the scope of the mark sought by
12 Nalgene?

13 A Again, it's a different neck, different cap.

14 Q So the answer is "yes"?

15 A Yes.

16 Q And would Exhibit 40 function equally as well
17 as the water bottle mark sought by Nalgene?

18 A This is a squeezable bottle. It's not -- it's
19 a squeezable bottle. Other than that, it holds water.
20 It's a water bottle.

21 Q Okay. So the answer is "yes"?

22 A Yes.

23 Q Passing to you what has been marked as Exhibit
24 41.

25 (Opposer's Exhibit 41 was marked for.

1 identification by the court reporter.

2 and is attached hereto.)

3 Q BY MR. SCHATZ: Would you agree with me that
4 Exhibit 41 depicts a bottle that does not fall within the
5 scope of the mark sought by Nalgene?

6 A No.

7 Q So you believe it does fall within the scope of
8 the mark?

9 A No, it doesn't. It doesn't.

10 Q Does the bottle depicted as Exhibit 41 not fall
11 within the scope of the mark sought by Nalgene because of
12 the shape of the bottom?

13 A Yes.

14 Q Does the bottle depicted as Exhibit 41 not fall
15 within the scope of the mark sought by Nalgene because of
16 the indented portion?

17 A Yes.

18 Q Does the bottle depicted as Exhibit 41 not fall
19 within the scope of the mark sought by Nalgene because of
20 the mechanism by which it can be opened to access water?

21 A This is not a Boston round bottle. There is
22 nothing to do with the mark.

23 Q So the answer is "correct," "yes"?

24 A Yes.

25 Q And would the bottle depicted as Exhibit 41

1 function equally as well as a water bottle than the
2 bottle mark sought by Nalgene?

3 A No.

4 Q Why not?

5 A Because it's squeezable, and it doesn't have a
6 tether. Open the cap, you can only use the straw.

7 Q Well, let me ask it this way: The bottle
8 depicted in Exhibit 41, it doesn't require a tether,
9 correct?

10 A Yeah, because it has a straw.

11 Q Correct.

12 So you can access water from the bottle
13 depicted in Exhibit 41 without a tether?

14 A Yes.

15 Q And it's squeezable which is a function that
16 the bottle sought by Nalgene does not have the capability
17 of, correct?

18 A It's different purpose, different market. This
19 is for, like, people riding bicycle. They want to
20 squeeze the water. And the Nalgene bottle is designed
21 for hiker who don't want the bottle to be broken. So it
22 should not be designed as squeezable.

23 Q So the answer to my question is: The bottle
24 depicted in Exhibit 41 can be squeezed, correct?

25 A Yes.

1 Q And the Nalgene mark cannot, correct?

2 A Yes.

3 Q I'm passing you what has been marked as Exhibit
4 42.

5 (Opposer's Exhibit 42 was marked for
6 identification by the court reporter
7 and is attached hereto.)

8 Q BY MR. SCHATZ: Does the bottle depicted in
9 Exhibit 42 fall within the scope of the mark sought by
10 Nalgene?

11 A Yes.

12 Q It does?

13 A No, it doesn't. Sorry. I didn't pay
14 attention. It doesn't.

15 Q Does the bottle depicted in Exhibit 42 not fall
16 within the scope of the mark sought by Nalgene because
17 there are indentations on the side of the bottle?

18 A Yes.

19 Q Does the bottle depicted as Exhibit 42 not fall
20 within the scope of the mark sought by Nalgene because of
21 the mechanism at the top?

22 A Yes, because it's not a Boston round bottle.
23 This is totally different.

24 Q Would you agree with me that there is a ring at
25 the top of the bottle depicted as Exhibit 42?

1 A Yes.

2 Q And would that allow people to use their
3 fingers to hold that bottle?

4 A Yes.

5 Q And would that ring allow someone to connect
6 that bottle to, say for example, a backpack?

7 A Yes.

8 Q Does the bottle depicted in Exhibit 42 function
9 equally as well as a water bottle?

10 A No, they will lose the cap.

11 Q I'm sorry?

12 A When you open the water bottle, and you will
13 lose the cap because it doesn't have a tether. It
14 doesn't have a tether. Okay. That's how it works.

15 Q Okay. Mr. Lin, I asked the question if the
16 bottle depicted as marked as Exhibit 42 would function
17 equally as well as a bottle bearing the mark sought by
18 Nalgene, and your response was along the lines of "no."

19 And the reason you provided was because the cap
20 would be lost, correct?

21 A Yes.

22 Q Okay. Now, you have apparently had a better
23 opportunity to review the photographs.

24 A Uh-huh.

25 Q Would you agree with me that the cap maintains

1 or remains connected to the water bottle after it is
2 removed?

3 A Yes.

4 Q So would you --

5 A I didn't see the other photograph.

6 Q That's fine.

7 A Okay.

8 Q So would you agree with me, then, that the
9 bottle depicted as Exhibit 42 would function equally as
10 well as a water bottle exhibiting the mark sought by
11 Nalgene?

12 A Yes.

13 MR. SCHATZ: Here is Exhibit 43.

14 (Opposer's Exhibit 43 was marked for
15 identification by the court reporter
16 and is attached hereto.)

17 Q BY MR. SCHATZ: Would you agree with me that
18 Exhibit 43 does not fall within the scope of the mark
19 sought by Nalgene?

20 A Yes.

21 Q And does it function equally as well as a water
22 bottle?

23 A Yes.

24 Q That demonstrates the mark sought by Nalgene?

25 A Yes.

1 Q Mr. Lin, I'm going to pass to you what has been
2 marked as Exhibit 44.

3 (Opposer's Exhibit 44 was marked for
4 identification by the court reporter
5 and is attached hereto.)

6 Q BY MR. SCHATZ: In your opinion, does the
7 bottle depicted in Exhibit 44 fall within the scope of
8 the mark sought by Nalgene?

9 A No, it's not Boston round.

10 Q Does it function equally as well as a water
11 bottle than the -- a bottle demonstrating the mark sought
12 by Nalgene?

13 A Yes.

14 Q Mr. Lin, I'm passing you what has been marked
15 as Exhibit 45.

16 (Opposer's Exhibit 45 was marked for
17 identification by the court reporter
18 and is attached hereto.)

19 Q BY MR. SCHATZ: Do you believe the bottle
20 that's been marked as Exhibit 45 falls within the scope
21 of the mark sought by Nalgene?

22 A No.

23 Q Do you believe that the bottle depicted in
24 Exhibit 45 functions equally as well as a water bottle
25 than a bottle demonstrating the mark sought by Nalgene?

1 MR. CHENG: Can you ask that again? I didn't
2 get it.

3 MR. SCHATZ: Sure.

4 Q BY MR. SCHATZ: Would you agree with me that
5 the bottle depicted in Exhibit 45 functions equally as
6 well as a water bottle than a bottle demonstrating the
7 mark sought by Nalgene?

8 A Yes, the cap doesn't spin as smooth as Nalgene
9 bottle.

10 Q Have you ever seen a bottle, a physical bottle,
11 as the bottle depicted in Exhibit 45?

12 A Yes.

13 Q When?

14 A This I've seen in 2003 in a outdoor -- outdoor
15 retail shop.

16 Q Will you agree with me that a bottle, a
17 physical product, like that depicted in Exhibit 45 has a
18 cap that can actually rotate independent of the top
19 annular ring?

20 A Yes, with holding the tether, yes, you can.

21 MR. SCHATZ: Mr. Lin, thank you for your time.
22 I have no further questions.

23 THE WITNESS: Thank you.

24 MR. CHENG: And I just have redirect.
25

REDIRECT EXAMINATION

BY MR. CHENG:

Q Earlier you said that it's easier to grip a round bottle than a square bottle of the same size; is that true?

A It depends on the size of bottle. For a 32-ounce bottle, it's easier to grip the round bottle than the square. But for 500, they are pretty much close. It still feels better holding the 500 ML bottle than a 500 ML square bottle.

Q There are two bottles here of similar diameter. Would you say that the square one is harder to hold?

A If we don't make this bevel edge, it's -- it's actually harder to hold.

Q And on Exhibit 15 you talked about the indents in laboratory bottles.

Can you autoclave a bottle if it has indents?

A We can autoclave any bottle we want. The reason why people autoclave the bottle is they want to re-use the bottle and they want the bottle absolutely clean without any residual of any chemicals. With the indent, it make it impossible. The indent always is really hard to clean the chemical off on the indent.

Q If you look at the middle bottle in Exhibit 15,

1 is that the Starbucks bottle?

2 A Yes.

3 Q And if you increase the neck so it's higher,
4 will it hold more or less volume per plastic used?

5 A It's actually holding less because you are
6 wasting the space. You can bore larger diameter for a
7 bigger slope.

8 Q And if you look at the cap of the Starbucks
9 bottle, is that cap as grippy as the Nalgene cap?

10 A No, it's actually very slippery.

11 Q Why is it slippery?

12 A Because it doesn't have too much grip. It's
13 just -- just a few line on the side.

14 Q And if you look at Exhibit 16, which is the
15 drawing page, do you see a depression on top there on the
16 button?

17 A Yes.

18 Q And what's the function of the depression?

19 A It's for the ultrasonic welding.

20 Q Why do you need to have a depression?

21 A Because you need ultrasonic hone reach to the
22 end of the button and to create a joint.

23 Q So if you don't have the ultrasonic hone reach
24 the bottom, then what would happen?

25 A It's not going to join strongly.

1 Q Okay. And also in Exhibit 16, is it true that
2 the button is higher than the strap?

3 A Yes.

4 Q And if you look at Exhibit 15, is there a
5 button on the Eddie Bauer?

6 A No.

7 Q Okay. Earlier you testified that you can't
8 print a label on an indent because it will have a bubble.

9 What's a bubble?

10 A The air will be between the label and the
11 bottle itself. If you have an indent, you cannot -- it's
12 really hard to remove the bubble from -- from the inside
13 of the label.

14 Q Do you know of any way to remove the bubble?

15 A You probably need to try to get it under high
16 temperature that the label shrink or something like that.
17 It's not possible to do it in a lab because people want
18 to be able to see what's written on the label clearly,
19 and you don't want to shrink your label.

20 Q Is it more burdensome to have to remove a
21 bubble?

22 A Yes.

23 Q Do the indents make the bottle weaker?

24 A Yes.

25 Q Let's see.

1 Oh, earlier you testified that customers like
2 to screen print 360 degrees?

3 A Uh-huh.

4 Q Is that a desirable feature?

5 A For like if we sell the bottle to people like
6 national park, they want whole view of national park, the
7 design they want to print 360 degree.

8 Q And you want to screen print in color?

9 A Yes.

10 Q Can you also screen print it if it has
11 indentations?

12 A You can only screen the area which is the
13 cylindrical wall. With indentation, the screen print is
14 going to skip the area.

15 Q Okay. Does polycarbonate cost more than
16 polypropylene?

17 A Yes.

18 Q This is for raw material?

19 A Yes.

20 Q And how do you know that?

21 A We constantly purchase them.

22 Q Is it just general knowledge in the industry?

23 A Yes.

24 Q Does everyone basically know this?

25 A Yes.

1 Q How much more, generally, is polycarbonate?

2 A Probably two times to three times more.

3 Q You said earlier that the Nalgene mark should
4 not be trademarked because it's -- because it's been used
5 in the industry for a long time.

6 Why has that Boston round been used in the
7 industry for such a long time?

8 A Because it's the most basic shape of the bottle
9 in the medical, pharmaceutical industry, a long
10 cylindrical shape in glass. And recently everybody
11 change from the glass material to plastic material. That
12 Boston round bottle is the shape of this mark. And if
13 anyone has the -- has the mark of the Boston round, then
14 everybody in the laboratory industry or pharmaceutical
15 industry cannot use Boston round for packaging with the
16 tether cap.

17 Q Okay. I'm going to show you Exhibit 19 again.
18 Do you remember Exhibit 19?

19 A Yes.

20 Q And is the cap on Exhibit 19 as good as the
21 Nalgene mark at issue in this case?

22 A No, actually, the grip is more slippery and
23 it's actually fragile because the area of -- the covering
24 area is actually extend too much. It's actually fragile
25 than the smaller cap.

1 Q So why do people buy the wide mouth, then?

2 A Wide mouth is for people who want to put ice
3 cube and just pour more water in at once. But it's not
4 easy to drink because they should be careful drinking the
5 wide-mouth bottle. It's going to spill a lot.

6 Q If you take a look at Exhibit 20, are the grips
7 of these as good as the Nalgene mark at issue in this
8 case?

9 A No, they are not.

10 Q Why is that?

11 A They are less grip, the gripping area, and it's
12 slippery.

13 Q Why did you make the grip slippery?

14 A Actually, this is all about design.

15 Q Okay. If you look at the bottle on page 22,
16 have you ever actually seen that bottle?

17 A No.

18 Q Okay. So if you look at the grip of the
19 bottle, is that also made with a button?

20 A Yes.

21 Q And does it have a stem?

22 A Yes.

23 Q And does it have an indent on top of the
24 button?

25 A Yes, and the bottle is not Boston round. We

1 are talking about the mark on Boston round bottle cannot
2 be marked. There are many bottle. I just testify they
3 are not infringing Nalgene's mark because they are not
4 Boston round.

5 Q Is this grip as good as the mark sought in this
6 case?

7 A I can't see.

8 Q Exhibit 22.

9 A I can't see from the picture.

10 Q Okay. What about the grip in Exhibit 24 that
11 I'm showing you, is that as functional as the Nalgene
12 grip?

13 A On the cap, you mean?

14 Q Yes.

15 A It's hard to say. It's not clear.

16 Q Okay. Because it's a blurry picture?

17 A Yeah, it doesn't have a fine strap. I believe
18 it's not easy to open.

19 Q I'll try to get you a better. Okay. Here's a
20 good picture.

21 What about the cap in Exhibit 28, can you see
22 the cap clearly there?

23 A Yes.

24 Q And does that cap grip as well as the Nalgene
25 cap?

1 A Probably not.

2 Q Why is that?

3 A Because it doesn't have the grip.

4 Q Okay. And what about the grip on 29?

5 A The grip is larger. It probably not as
6 efficient as Nalgene's cap.

7 Q Would a person have to use more hand strength
8 to open that?

9 A Yes, because also it's more slippery.

10 Q And is that cap basically the same cap that's
11 on Exhibit 30 --

12 A Yes.

13 Q -- that I'm showing you?

14 A They are the same, identical.

15 Q Both are not as good as the Nalgene?

16 A Yeah.

17 Q Okay. What about the grip in Exhibit 31 that
18 I'm showing you, is that grip as good?

19 A No, it doesn't have grip at all.

20 Q Oh, you have that.

21 Just for the record, Exhibit 31 is a picture of
22 the tangible exhibit which is Exhibit 32?

23 A Yes.

24 Q And could you take a look at Exhibit 32 for a
25 moment?

1 A It's not easy to open.

2 Q When you turn the cap, does the tether turn
3 with it?

4 A Yes.

5 Q Is that a good or bad thing?

6 A If you use one hand, the tether turn with it.
7 This is really bad for hiker because this really
8 interfere when they try to open the cap. The tether
9 actually blocking their hands like this (indicating).

10 Q If you look at Exhibit 33, does this cap look
11 as grippy as the Nalgene cap, if you can see the grip?

12 A I think I can see on this one.

13 Q Can you see the picture of the grip?

14 A The grip is larger grip.

15 Q What about on Exhibit 34, can you see the grip
16 on Exhibit 34?

17 A No, not clearly.

18 Q Okay. So --

19 A This is original.

20 Q Let's look at the color original.

21 A No, you can't see it. It's just black.

22 Q So you can't really tell if the grip is better
23 or worse --

24 A No.

25 Q -- than the Nalgene brand?

1 What about Exhibit 35, does it have a flip cap?

2 A Yes.

3 Q And the --

4 A I don't think we should spend too much time
5 various design. We are talking about Boston round. Show
6 me the Boston round. I can answer you. If you show me
7 not Boston round, I refuse to answer. Waste my time.

8 Q Now, with regard to Exhibit 36, the collapsible
9 canteen, can you autoclave that?

10 A Of course not. It's made of polypropylene.

11 Q Okay. Just real quick, can we go through these
12 exhibits? I'll be done in five minutes. Okay.

13 And if you look at the Exhibits 37, 38, 39, 40,
14 41, and all the way to 45, you've seen these exhibits,
15 right?

16 A Yes.

17 Q And would you say that the caps on these
18 exhibits are as grippy as the Nalgene?

19 MR. SCHATZ: Objection to the extent it's
20 already been asked and answered.

21 Q BY MR. CHENG: You can answer.

22 Are these caps as grippy as the Nalgene mark?

23 A This is probably not. Most of them are
24 having -- some of Nalgene bottle has the same grip, but
25 some of them are identical cap in this picture. And they

1 actually are not as grippy as Nalgene's design.

2 Q Exhibit 43, the square bottle, is that as
3 strong as a cylindrical bottle?

4 A No, this is not as strong as cylindrical
5 bottle.

6 Q And --

7 A You can actually squeeze -- squeeze it a little
8 bit.

9 Q Oh, really?

10 A Yeah, because this is made of same material.
11 But with square shape, you can squeeze them a little bit.

12 Q Is this supposed to be squeezable?

13 A No.

14 Q All right. The flip straw on Exhibit 41, does
15 the flip straw seal the water in as good as the screw
16 cap?

17 A No.

18 MR. SCHATZ: Objection to the extent it's
19 already been asked and answered.

20 MR. CHENG: Let's see. All right. That's it
21 for me.

22 MR. SCHATZ: I think that's it. Very good.

23 Mr. Lin, thank you very much for your time.

24 MR. CHENG: Thank you very much.

25 Do you want to stipulate as to authenticity and

1 admissibility of the evidence?

2 MR. SCHATZ: Why don't we stipulate to all the
3 exhibits that we've talked about today? How's that? And
4 then --

5 MR. CHENG: We talked about every single
6 exhibit.

7 MR. SCHATZ: Okay. So referring to the
8 exhibits today, we're stipulating to the authenticity of
9 them.

10 MR. CHENG: Of 1 through 45.

11 MR. SCHATZ: And then just to note for the
12 record, I think some of the exhibits are not marked
13 pursuant to the --

14 MR. CHENG: None of them are.

15 MR. SCHATZ: -- opposition. So we'll have to,
16 after the fact, make the appropriate notations, so they
17 are admissible with the board.

18 And that being said, I think that's it.

19 MR. CHENG: Yeah.

20

21 (The deposition proceedings
22 were concluded at 12:58 p.m.)

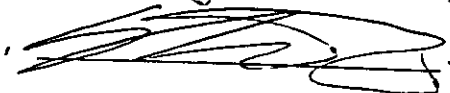
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PENALTY OF PERJURY CERTIFICATE

I, the undersigned, declare under penalty of perjury that I have read the foregoing transcript, and I have made any corrections, additions or deletions that I was desirous of making; that the foregoing is a true and correct transcript of my testimony contained therein.

EXECUTED this 24th day of August, 2006,
at 

STEVEN LIN

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF Los Angeles) ss.

I, Margaret Ford, Certified Shorthand Reporter,
Certificate No. 10530 for the State of California do hereby
certify:

That the foregoing proceedings were taken before me at
the time and place herein set forth; that any witnesses in the
foregoing proceedings, prior to testifying, were placed under
oath; that a verbatim record of the proceedings was made by me
using machine shorthand which was thereafter transcribed under
my direction; further that the foregoing is an accurate
transcription thereof.

I further certify that I am neither financially
interested in the action nor a relative or employee of any
attorney of any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: August 8, 2006



name

Job #:

Job Date:

~ 7

(1) To clarify the record;

(2) To conform to the facts;

(3) To correct major transcription errors.

[illegible]

Signature of Deponent

Dated

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Serial No. 76/572,253
Opposer TriForest Ent's Exhibit 1

United States Patent [19]

Berney

[11] Patent Number: 4,595,130

[45] Date of Patent: Jun. 17, 1986

[54] REVERSIBLE POURING SPOUT ASSEMBLY FOR CONTAINERS

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[73] Assignee: Reliance Products Ltd., Winnipeg, Canada

[21] Appl. No.: 638,358

[22] Filed: Aug. 6, 1984

[30] Foreign Application Priority Data

Jan. 23, 1984 [AU] Australia PG3297

[51] Int. Cl.⁴ B65D 25/50; B67D 3/00

[52] U.S. Cl. 222/539; 222/189; 222/543; 222/568

[58] Field of Search 222/189, 460, 461, 530, 222/539, 543, 545, 567, 568, 538

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Primary Examiner—Joseph J. Rolla

Assistant Examiner—Edward S. Ammeen

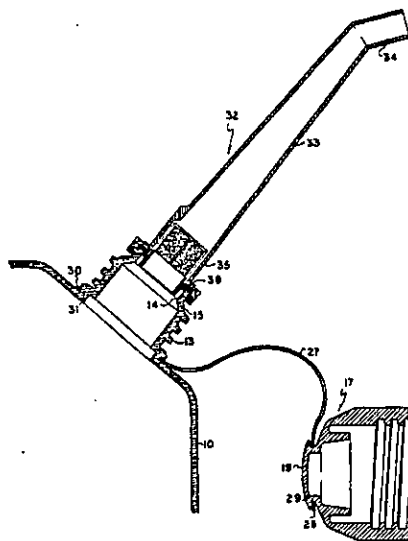
Attorney, Agent, or Firm—Stanley G. Ade

[57]

ABSTRACT

A reversible filler spout assembly is sealably engaged with the filler neck when in the pouring position by camming surfaces on the spout inner end and on the distal end of the filler neck. When reversed and inserted into the neck for storage, the closure cap engages the filler neck and clamps a horizontal flange on the spout between the interior of the cap and the upper end of the neck with resilient seals between the cap and spout and between the spout and filler neck so that no leakage can occur.

10 Claims, 11 Drawing Figures

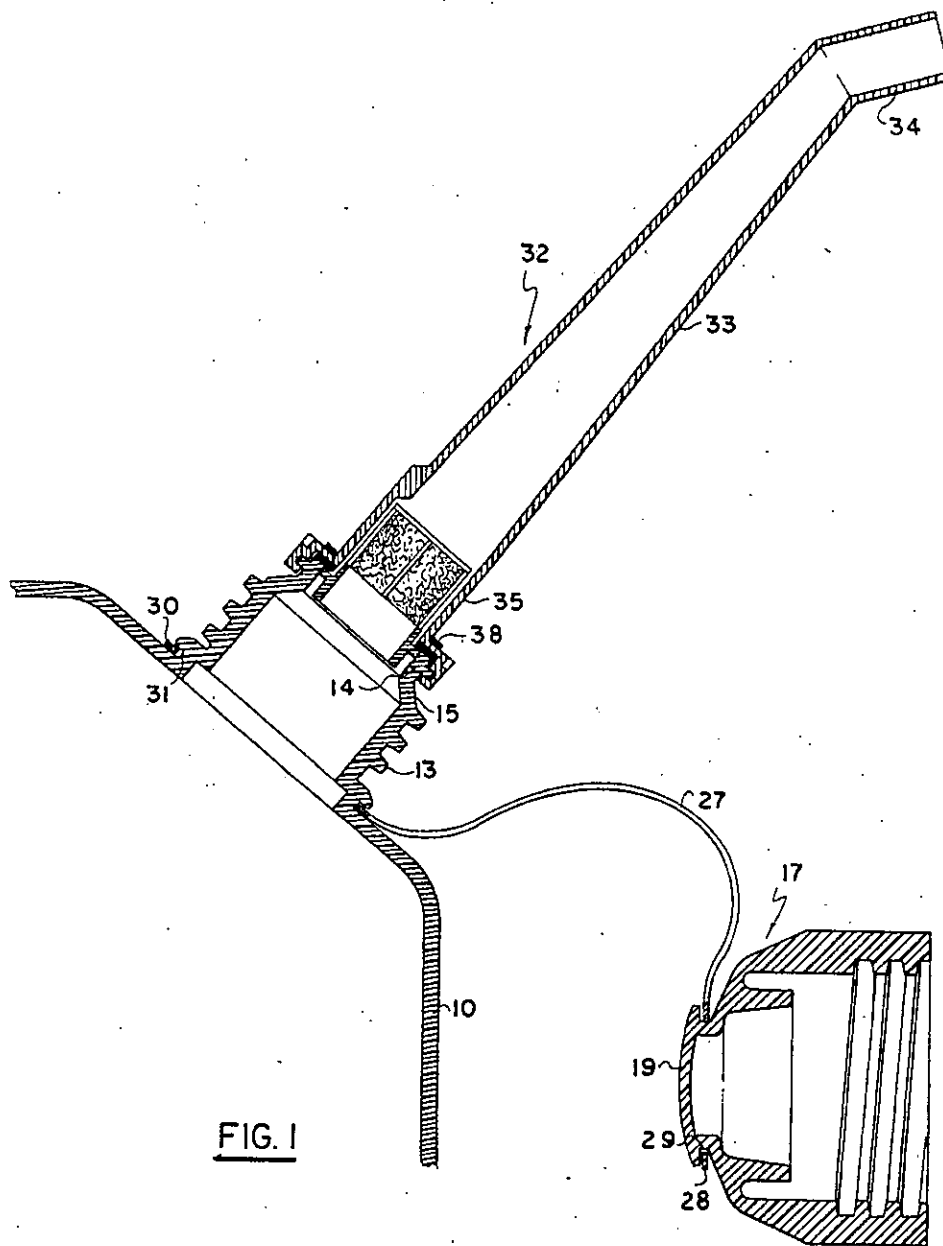


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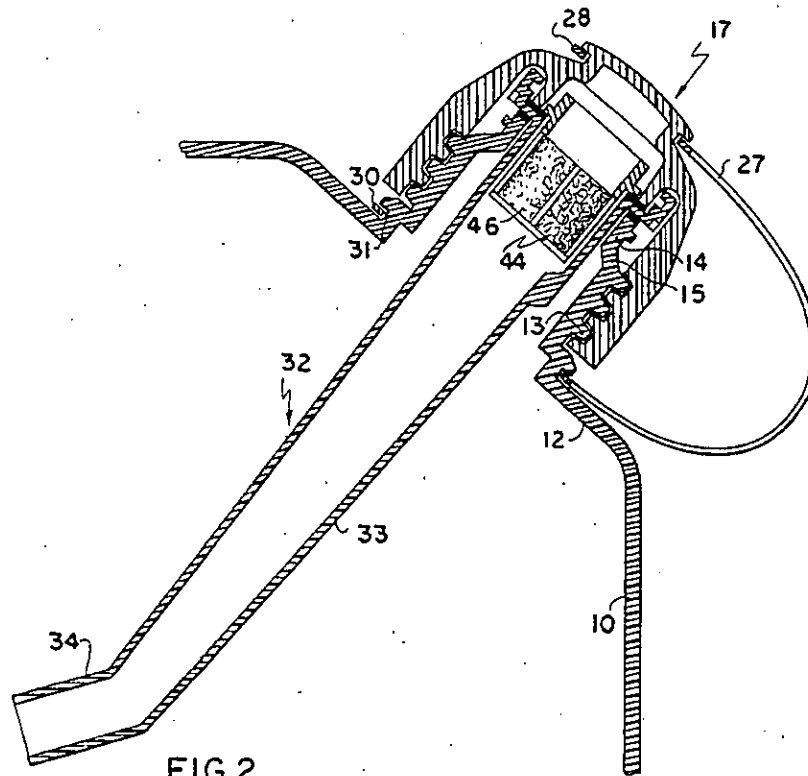


FIG. 2

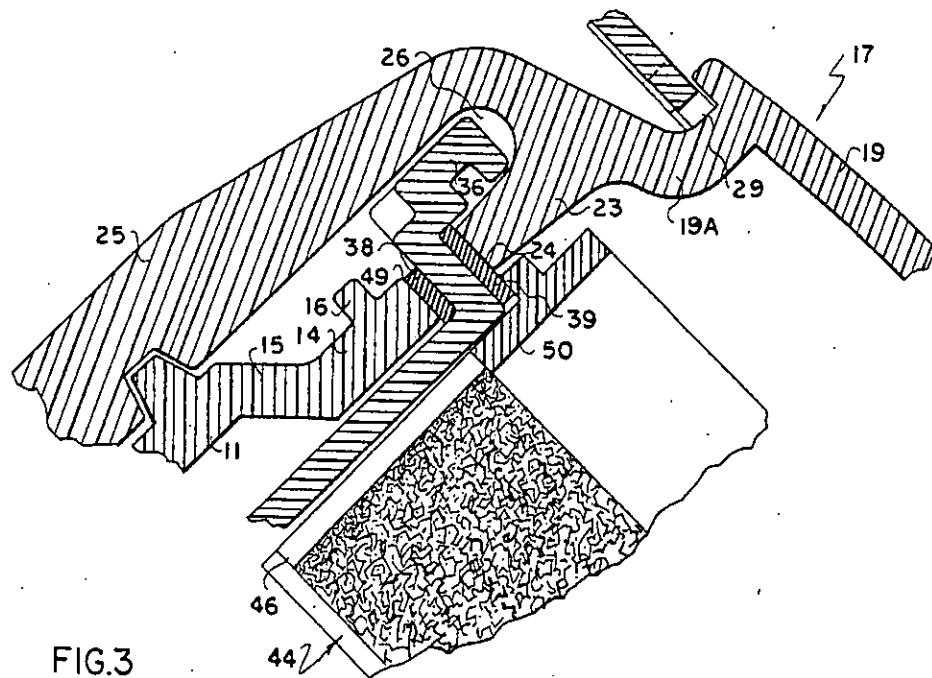


FIG. 3

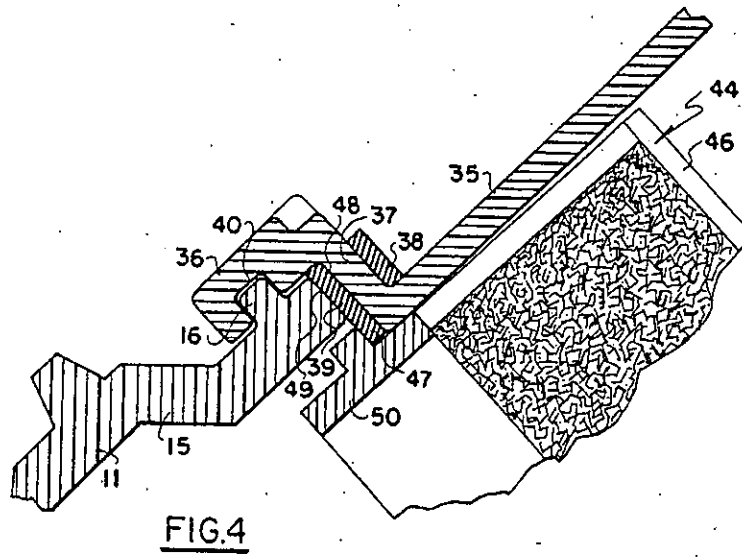


FIG. 4

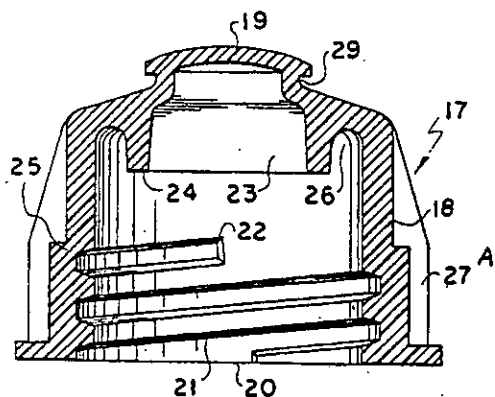


FIG. 5

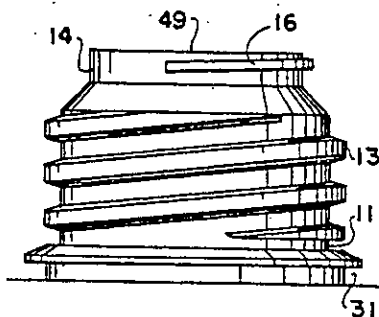


FIG. 6

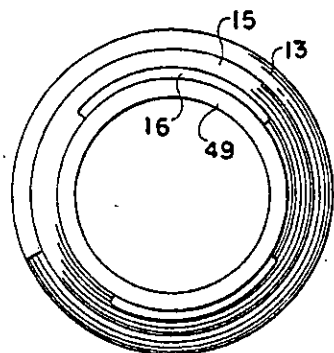


FIG. 7

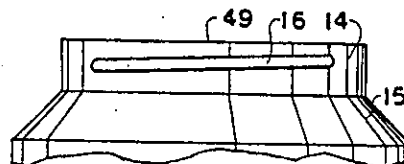


FIG. 8

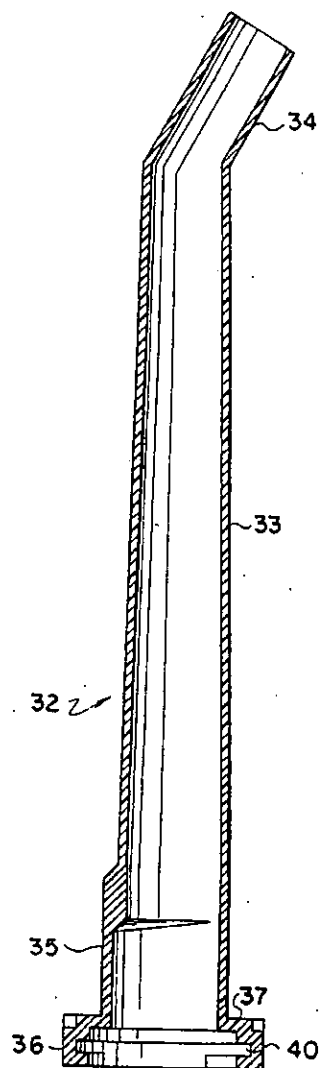


FIG. 9

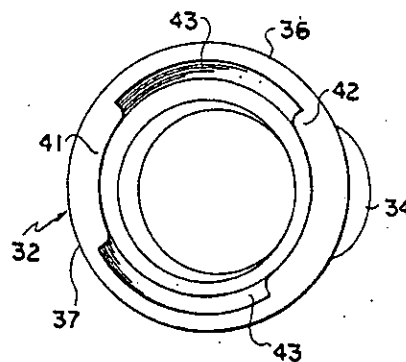


FIG. 10

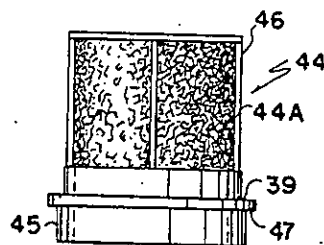


FIG. 11

REVERSIBLE POURING SPOUT ASSEMBLY FOR CONTAINERS

BACKGROUND OF THE INVENTION

This invention relates to new and useful improvements in reversible pouring assemblies for containers, particularly containers made from synthetic plastic although the invention is not limited to such synthetic plastic containers.

Conventionally, plastic containers are well known for containing water, gasoline and other liquids and it is of course a requirement that such containers be sealed when not in use yet provide access for the attachment of a pouring spout when it is desired to dispense all or part of the contents therefrom.

Difficulty is experienced firstly, in storing the pouring spout and secondly, to ensure that an adequate seal is provided both when the container is sealed and when the spout is attached for the pouring action.

Many such containers include a pouring spout which may be stored internally of the container with the sealing cap maintaining the spout in the stored position. The cap and spout are removed when it is desired to pour the contents whereupon the spout is reversed and engaged through the cap which is apertured so that it extends outwardly therefrom. The cap is then screw threadably engaged upon the pouring neck thus clamping the spout in sealing relationship with the can and allowing the pouring action to commence.

When it is desired to store such spouts within the container, the cap and spout are removed, the spout is reversed and engaged through the pouring neck of the container, to be stored internally with the flange of pouring spout engaging the outer end of the neck. However in order to seal the container, a blank disc is then engaged within the end of the pouring spout whereupon the apertured cap may be screw threadably engaged over the neck so that the blank disc seals against the spout and the wall of the cap defining the aperture. One of the principal disadvantages of such construction is the fact that the disc has to be removed when it is desired to pour and although the cap may be tethered to the container, it is not possible to tether the disc also so that it often becomes mislaid, dirt incrusts and is generally most unsuitable for use in the majority of circumstances.

SUMMARY OF THE INVENTION

The present invention overcomes these disadvantages by providing a reversible pouring spout which, when in the pouring position, is detachably securable to the neck of the container and is sealed thereto without the necessity of using an apertured cap.

When the spout is in the stored position within the container, the cap, which is closed on the upper side thereof, engages the pouring neck in sealed relationship thus holding the spout in the stored position and preventing any leakage from occurring. This construction eliminates the necessity for the loose blank disc or other means normally provided to enable such reversible spouts to operate.

In accordance with one aspect of the invention there is provided, in a container which includes a substantially cylindrical pouring neck extending therefrom; a reversible pouring spout assembly selectively movable from an extended, pouring position to an internal, stored position and vice versa, said spout assembly in-

cluding a pouring neck attaching end and an extending pouring spout portion, means cooperating between said spout assembly and said pouring neck to detachably secure said spout assembly in sealing relationship with said pouring neck when in the extended pouring position, and a closure cap detachably engaging with said neck and retaining said spout assembly in the internal stored position, in sealing relationship with said pouring neck and said closure cap.

In accordance with a further aspect of the invention there is provided a combination of a container and a reversible pouring spout assembly, said container including a substantially cylindrical pouring neck extending therefrom said reversible pouring spout assembly being selectively movable from an extended pouring position to an internal stored position and vice versa, means cooperating between said spout assembly and said pouring neck to detachably secure said spout assembly in sealing relationship with said pouring neck when in the extended pouring position, and a closure cap detachably engaging with said neck and retaining said spout assembly in the internal stored position, in sealing relationship with said pouring neck and said closure cap.

With the foregoing in view, and other advantages as will become apparent to those skilled in the art to which this invention relates as this specification proceeds, the invention is herein described by reference to the accompanying drawings forming a part hereof, which includes a description of the best mode known to the applicant and of the preferred typical embodiment of the principles of the present invention, in which:

DESCRIPTION OF THE DRAWINGS

FIG. 1 is a fragmentary cross sectional view showing the pouring neck of a container with the spout secured thereto in the pouring position.

FIG. 2 is a view similar to FIG. 1 but showing the spout in the stored position within the container and the cap engaged over the filler neck.

FIG. 3 is an enlarged fragmentary view of the one side of the spout and cap engaged with the neck as in FIG. 2.

FIG. 4 is an enlarged fragmentary view of a similar portion of FIG. 1 as that shown in FIG. 3.

FIG. 5 is an enlarged cross sectional view of the cap per se.

FIG. 6 is an enlarged side elevation of the pouring neck per se.

FIG. 7 is a top plan view of FIG. 6.

FIG. 8 is a fragmentary side elevation of the upper portion of FIG. 6 taken at 90° thereto.

FIG. 9 is a longitudinal cross section of the spout filter.

FIG. 10 is an underside plan view of FIG. 9.

FIG. 11 is a side elevation of the filter retainer and filter per se.

In the drawings like characters of reference indicate corresponding parts in the different figures.

DETAILED DESCRIPTION

Proceeding therefore to describe the invention in detail, reference should first be made to FIGS. 1 through 4 in which 10 illustrates in phantom, the upper portion of a container for fluids and the like which includes a substantially cylindrical neck 11 extending

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from a planar portion 12 and being screw threaded as at 13, on the outer surface thereof.

The distal end 14 of the pouring neck is of a reduced diameter to the remaining portion of the neck, and connected thereto by means of the truncated conical connecting portion 15. Details of this pouring neck are shown in FIGS. 6 and 7 and formed on the distal end portion are a pair of camming surfaces 16 diametrically opposite from one another and extending part way around the distal end portion 14 as clearly shown, the purpose of which will hereinafter be described.

A sealing cap component collectively designated 17 is shown in detail in FIG. 5 and is also preferably made of plastic. It includes the substantially cylindrical body 18 having a closed one end 19 and an open other end 20. The portion of the cylindrical body 18 adjacent the open end 20 is internally screw threaded as indicated by reference character 21 with the screw threading terminating at a point indicated by reference character 22. Extending downwardly from the interior of the domed portion 19A of the cap, is an annular cylindrical flange 23 terminating at a point indicated by reference character 24 spaced above the inner ends of the screw threads indicated at 22. This annular flange 23 is spaced inwardly from the wall 25 thus defining, with the wall 25, an annular channel 26 all of which is clearly shown in FIG. 5.

A plurality of projections 27A are provided around the exterior of the cap in order to assist in the manual gripping thereof when same is being manipulated. The cap screw threadably engages the neck 11 with the screw threads 21 engaging the screw threads 13.

A flexible tether 27 includes a loop 28 at one end engaging an annular groove 29 adjacent the upper side 19 of the cap and having a further loop 30 engaging an annular groove 31 around the base of the pouring neck 11 thus permitting the cap to be rotated freely yet anchoring same to the container 10.

A reversible pouring spout is provided collectively designated 32 and also preferably made from plastic. It includes an elongated tapered pouring portion 33 with an angulated discharge end 34 formed on the distal end thereof.

The inner or container contacting end 35 includes an annular cylindrical portion 36 connected to the end 35 by means of a planar shoulder 37 and inner and outer resilient gaskets 38 and 39 are provided upon either side of this planar shoulder 37 as clearly shown in FIGS. 3 and 4 and secured as hereinafter described.

A pair of arcuately curved recesses 40 are formed diametrically opposite one another on the inner surface of the cylindrical portion 36, the extent being defined by the ends 41 of the lower lips 42 defining these recesses (see FIG. 10). The remaining portion of the circle upon which these recesses lie, is open as indicated by reference character 43, the purpose of which will hereinafter be described.

A cylindrical filter retainer (see FIG. 11) collectively designated 44 is frictionally engaged within the end portion 35 of the pouring spout and includes a cylindrical body portion 45, an inner end spider 46 spanning the inner end of the cylindrical portion 45 and an annular shoulder 47 formed on the outer end which abuts against the surface 48 which is an inner continuation of the flange 37 all of which is clearly shown in FIGS. 3 and 4. The filter element in the form of plug 44A is preferably made from open celled, sponge type plastic, and fits within the retainer as seen in FIGS. 1 and 2.

Gasket 39 engages around the shouldered cylindrical portion 36 and registers on shoulder 47. Gasket 38 engages around end 35 of the spout and registers on shoulder 37. These gaskets are frictionally engaged and retained or may be adhesively secured to each side of the shoulder 47.

In operation and dealing first with the spout in the stored position shown in FIGS. 2 and 3, the portions 33 and 34 are engaged freely through the filler neck 11 until the resilient seal 38 engages the upper end wall 49 of the portion 14 of the filler neck as clearly shown in FIG. 3 with the remaining portion 36 of the filler spout assembly projecting above the end 49. The outer portion 50 of the filter retainer 44 is substantially flush with the end 49.

The sealing cap 17 is then screw threadably engaged over the filler neck and rotated to move same downwardly over the filler neck until the surface 24 of the annular flange 23 of the filler neck engages upon the sealing washer 39 whereupon a slight further tightening of the cap will compress the sealing washer 39 and also the sealing washer 38 thus completely sealing the interior of the can from the exterior thereof. In this connection, sealing washer 38 seals between the spout and the neck and the sealing washer 39, between the cap and the spout.

Reference to FIG. 3 will show that the portion 36 of the spout is freely engaged within the annular recess 26 in the filler cap and the portion 50 of the filter retainer is freely engaged within the area inboard of the annular shoulder 23 of the cap.

When it is desired to change the pouring spout assembly 32, from the stored position to the pouring position, then the cap is rotated and removed from the filler neck to remain connected to the container by means of the tether 27.

The pouring spout component 32 is then withdrawn from the container and reversed and engaged upon the upper end of the filler neck 11 by positioning the annular areas 43 of the filler spout over the camming ramps 16 on the upper end portion 14 of the filler neck. The filler spout is then partially rotated thus engaging the camming ramps with the recesses 40 of the filling camming ramps, this partial rotation draws the filler neck downwardly until the resilient sealing ring 39 on the portion 35 of the pouring spout engages the upper end wall 49 of the filler neck thus effecting a seal at this point between the interior of the can and the exterior of the filling neck. This allows the contents of the can to be poured through the pouring spout without any leakage occurring at the sealed junction therebetween. It will be observed from FIG. 4 that the extending portion 50 of the filter retainer freely engaged within the upper end portion 14 of the filler neck.

It will therefore be appreciated that a reversible spout assembly is provided which is sealed in either position and without requiring a loose blank washer or disc as is conventional.

Since various modifications can be made in my invention as hereinabove described, and many apparently widely different embodiments of same made within the spirit and scope of the claims without departing from such spirit and scope, it is intended that all matter contained in the accompanying specification shall be interpreted as illustrative only and not in a limiting sense.

I claim:

1. The combination of a container and a reversible pouring spout assembly, said container including a sub-

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stantially cylindrical pouring neck extending therefrom, said reversible pouring spout assembly being selectively movable from an extended pouring position of an internal stored position and vice versa, said spout assembly including a pouring neck attaching end and an extending pouring spout portion, means cooperating between said spout assembly and said pouring neck to detachably secure said spout assembly in sealing relationship with said pouring neck when in the extended pouring position, a closure cap detachably engaging with said neck and further independent means cooperating between said cap and said neck to detachably secure said cap to said neck for retaining said spout assembly in the internal stored position, in sealing relationship with said pouring neck and said closure cap and also closing said container regardless of the presence of said spout assembly, said means cooperating between said spout assembly and said pouring neck as aforesaid, including said attaching end engaging over said pouring neck and camming means cooperating between the outer side of said pouring neck and the inner side of said attaching end for moving said attaching end into sealing relationship with the outer end of said pouring neck and sealing means between said attaching end and said outer end.

2. The invention according to claim 1 in which said camming means includes at least two camming surfaces extending outwardly from the side wall of said pouring neck and being substantially equidistantly spaced circumferentially around said side wall and corresponding recesses on the inner wall of said attaching end of said pouring spout assembly engaging said camming surfaces.

3. The invention according to claim 2 in which said attaching end includes an annular flange extending radially outwardly from said pouring spout portion and an annular wall extending substantially at right angles from the outer edge of said annular flange in a direction away from said pouring spout portion, and inner lip portions extending inwardly from the outer end of said annular wall defining, with said annular flange, recesses engageable upon said camming surfaces.

4. The invention according to claim 3 in which said sealing means engages between said annular flange and the outer end wall of said pouring neck.

5. The invention according to claim 1 in which said further independent means cooperating between said cap and said neck include said closure cap screw threadably engaging said pouring neck when said spout assembly is in the inward stored position and means within said closure cap for clamping said pouring spout assem-

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bly in said sealed relationship between said closure cap and the outer end of said pouring neck.

6. The invention according to claim 5 in which said means within said closure cap includes an annular cylindrical flange depending downwardly, concentrically from said closed end and spaced inwardly from the surrounding wall of said closure cap and thus defining an annular recess or cavity between said cylindrical flange and said surrounding wall, said cylindrical flange terminating spaced inwardly from the open end of said closure cap, the distal end of said cylindrical flange cooperatively engaging said pouring neck attaching end of said spout assembly and clamping same in sealing relationship to said pouring neck.

7. The invention according to claim 6 in which said attaching end of said pouring spout assembly includes an annular flange extending radially outwardly from said pouring spout assembly and an annular wall extending substantially at 90° from the outer edge of said flange assembly away from said pouring spout portion of said spout assembly, sealing means on each side of said annular flange of said attached end, one between said annular flange and the outer end of said pouring neck, the other between said annular flange and the distal end of said cylindrical flange of said closure cap, said annular wall of the attaching end of said pouring spout assembly engaging freely within the annular recess or cavity between said cylindrical flange and said surrounding wall of said closure cap whereby tightening of said closure cap upon said pouring neck clamps the said annular flange of said attaching end of said pouring spout assembly between said closure cap and the outer end of said pouring neck.

8. The invention according to claim 1 which includes a detachable filter component within said attaching end of said pouring spout assembly.

9. The invention according to claim 8 in which said filter component includes a cylindrical filter retainer frictionally engageable within said attaching end and including a cylindrical body portion and a filter element held within said body portion.

10. The invention according to claim 9 in which said filter component include a cylindrical filter retainer frictionally engageable within said attaching end and including a cylindrical body portion and a filter element held within said body portion and an annular shoulder on the outer end of said body portion abutting against the inner portion of the outer sealing means on said annular flange of the attaching end of the pouring spout assembly.

* * * * *

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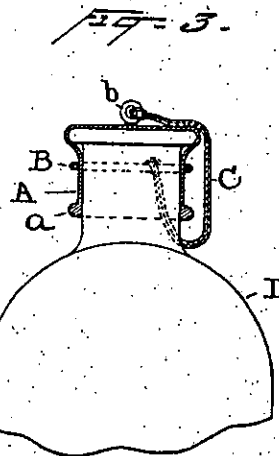
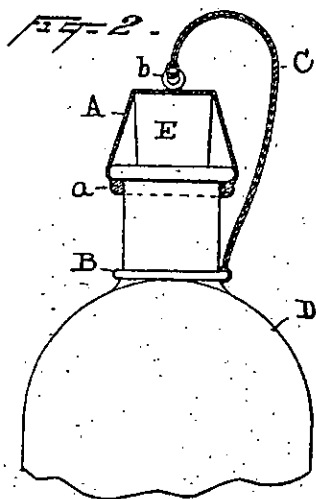
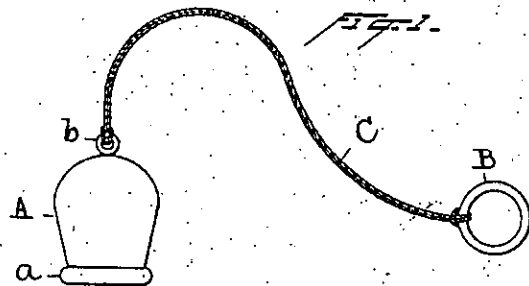
(No Model.)

T. B. BIRNBAUM.

STOPPER OR COVER FOR THE MOUTHS OF BOTTLES.

No. 524,159.

Patented Aug. 7, 1894.



Witnesses
Harris & Clark
W. H. H. H.

Inventor
Theodore B. Birnbaum
By his Attorneys
Dyer & Hely

THE MORRIS PETERS CO. PHOTO-LITHO. WASHINGTON, D. C.

TriForest Ent v. Nalgene
Opposition No. 91165809
Serial No. 76/572 252

3

opposer TriForest Ent's Exhibit 3

UNITED STATES PATENT OFFICE.

THEODORE B. BIRNBAUM, OF LONDON, ENGLAND.

STOPPER OR COVER FOR THE MOUTHS OF BOTTLES.

SPECIFICATION forming part of Letters Patent No. 524,159, dated August 7, 1894.

Application filed July 29, 1893. Serial No. 481,860. (No model.)

To all whom it may concern:

Be it known that I, THEODORE B. BIRNBAUM, a subject of the Queen of Great Britain, residing in the city of London, England; have invented a certain new and useful Improvement in Stoppers or Covers for the Mouths of Bottles, of which the following is a specification.

The object of my invention is to provide a covering for the mouths of bottles and the like, which by its form and construction is adapted to be used in connection with bottles or jars of widely varying sizes and shapes, and with or without corks or other stoppers, and in every case to furnish a secure, easily applied and effective air-tight covering. In accomplishing this I make such cap of thin and flexible rubber of uniform thickness throughout, except at its open end where it has a bead or stiffened edge, and having a curved or rounded shape or contour such that it may be stretched over the mouth and neck of bottles and other like vessels having varying sizes and shapes, and is not confined in its use to any special class or style of bottles. I also form integral with the rubber cap at the top thereof a ring, and I attach to this ring a cord of flexible material which terminates in an elastic ring, which ring is adapted to be slipped over the neck of the bottle, so that when the cap is removed the same will not be misplaced or lost. This elastic ring also serves another purpose; that is, when the cap or thimble is employed to cover the mouth of a bottle which is closed by a stopper entirely inserted within the mouth, or when the cap is employed alone; in both cases the cap will extend some distance down the neck of the bottle, and unless the cap is held firmly about the neck of the bottle, close to the rim, it will work upward and fail to fit snugly across the mouth of the bottle. The ring referred to obviates this difficulty since it can be slipped over the cap and adjusted close to the rim of the neck of the bottle.

My invention is illustrated in the accompanying drawings, in which—

Figure 1 is an elevation of a rubber cap embodying my invention. Fig. 2 is an elevation of a bottle with a cork or other stopper inserted in the mouth thereof and my improved cap placed over the same, the cap being shown in section; and Fig. 3 shows my

invention applied to a bottle not having a cork or other stopper.

A is the rubber thimble or cap, B the rubber ring adapted to be placed about the neck of a bottle, and C a string for securing the rubber cap and ring together.

D are bottles or jars of any form or shape. The string C is tied to ring b of rubber formed integrally with the cap A.

Referring to Fig. 2, it will be seen that the bottle D is closed by a cork or other stopper E, and over this stopper and about the mouth of the bottle is stretched the cap A, the thickened or rolled edge a adjusting itself about the mouth of the bottle and securing the cap in place. The rubber ring B in this view is shown as stretched about the neck of the bottle, and it will be readily understood that when the cap A is removed the same will be held to the bottle by the rubber ring B and cord C.

In Fig. 3 the cap is shown as covering the mouth and neck of the bottle, it being used either alone or in conjunction with a stopper inserted entirely within the mouth of the bottle. When employing the cap in this way, the rubber ring B also serves to assist in making a tight joint. As shown, the ring is slipped up about the cap A after the same has been stretched over the mouth and neck of the bottle; the ring B thus serving to assist in keeping the cap close about the neck of the bottle. To remove the cap when employed in this way, ring B is first slipped down onto the neck of the bottle.

What I claim is—

A covering for the mouths of bottles and the like, having in combination a continuous body of thin elastic rubber shaped as a cap and normally having a rounded contour, the same being of uniform thickness throughout and having a bead or less flexible edge at its open end, a ring formed integrally with said cap at its closed end, a cord extending from said ring, and an elastic ring attached to said cord, substantially as set forth.

This specification signed and witnessed this 18th day of July, 1893.

THEODORE B. BIRNBAUM.

Witnesses:

FRANCIS W. FRIGOUT,
H. MITCHELL.

TriForest Ent v. Nalgene
Opposition No. 91165809
Serial No. 76/572 253

3

Opposer TriForest Ents Exhibit 3

[54] SCREW STOPPER FOR A CAN

[76] Inventor: Wolfram Schiemann,
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Ludwigsburg, Fed. Rep. of Germany

[21] Appl. No.: 633,719

[22] Filed: Jul. 24, 1984

[30] Foreign Application Priority Data

Aug. 5, 1983 [DE] Fed. Rep. of Germany 3328320

[51] Int. Cl.³ B65D 53/00

[52] U.S. Cl. 220/304; 220/375;
215/329

[58] Field of Search 220/288, 304, 375;
215/329, 321, 330

[56] References Cited

U.S. PATENT DOCUMENTS

3,203,576 8/1965 Wout et al. 220/304
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Primary Examiner—George T. Hall

[57] ABSTRACT

Between a screw cap and pouring spout a snap device is formed in such a way that an acoustic signal is generated as soon as the seal between cap top and spout edge is compressed by a specific press stroke. Thus, both inadequate sealing pressing and overloading of the seal or threading are largely avoided.

8 Claims, 2 Drawing Figures

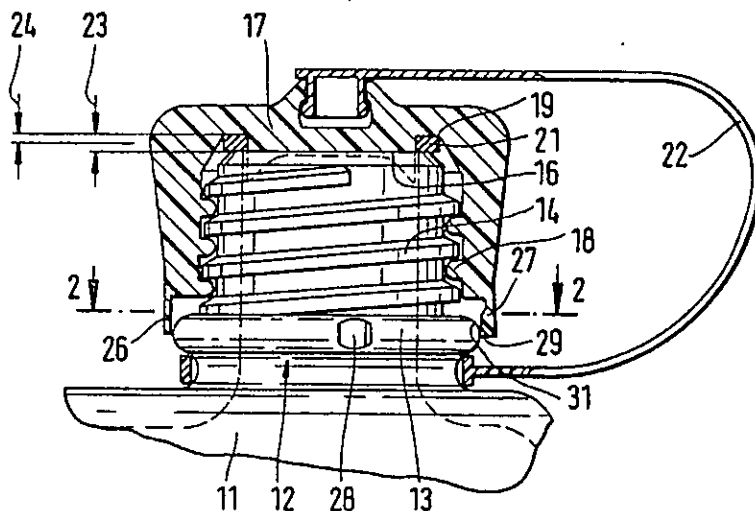


FIG. 1

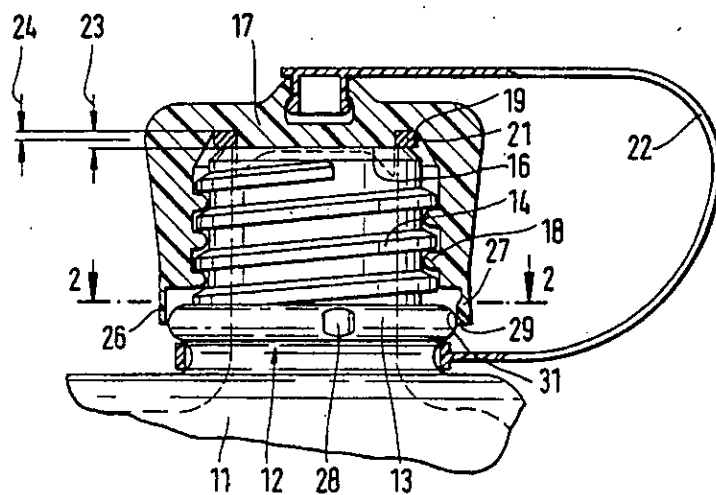
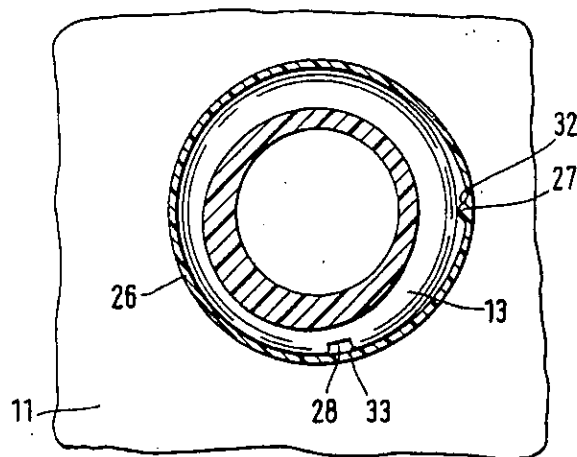


FIG. 2



SCREW STOPPER FOR A CAN

The invention relates to a screw stopper for a can of synthetic plastics material for fuel, more particularly to a can of synthetic plastics material, comprising a pouring spout with external threads, a screw cap with internal threads screwable on the external threads of the pouring spout, and an elastically deformable seal arranged between the top of the screw cap and the edge of the pouring spout, wherein the cap top, after initial contact with the seal can be further pressed by an axial press stroke having a length exceeding which, the seal is irreversibly deformed or the engagement between internal and external threads is overloaded.

BACKGROUND OF THE INVENTION

Such screw stoppers are widespread in cans available on the market. Occasional complaints regarding escaping fuel indicate that in these cases the screw stopper was not correctly operated, and the seal was not able to carry out its function. Thus, for example, dirt in the threaded region can make the screwing on of the screw cap so difficult that the closure position is thereby simulated. Likewise, a closure position is simulated if the screw cap is screwed in a tilted position on to the pouring spout, in which case naturally the threading is partially damaged. Another fault consists in that the screw cap is screwed on with excessive force and then either the threading is so damaged that the screw cap can no longer be held correctly, or the seal is irreversibly deformed so that it can no longer carry out its function. The latter is to be expected predominantly in the case of seals of synthetic plastics material. Naturally, both kinds of damage can occur together.

OBJECT AND STATEMENT OF THE INVENTION

It is, therefore, the object of the invention to provide a screw stopper of the initially stated type in such a way that escape of fuel resulting from an inadequately firmly screwed-on screw cap is avoided as far as possible, but on the other hand damage due to excessive screwing on is likewise excluded as far as possible.

This object is achieved by the improvement wherein a snap device is provided between the screw cap and the pouring spout, in a manner such that on closure of the screw cap an acoustic signal is generated as soon as a predetermined spacing within the range of the length of the press stroke is reached between the cap top and the spout edge.

In accordance with the motto, "When it has clicked put it away", even less technically skilled users are to a certain extent instructed when the closure is correctly closed. Both an excessively slack seating of the screw cap and overloading of the components are thereby largely avoided. Advantageously, the invention includes the following additional features:

An axially overhanging cylinder wall on the end of the screw cap precedes the internal threads and has at least one radially inwardly directed dog in the region of the cylinder wall. An annular collar with a radially receding is on the pouring spout in the region remote from the spout edge, the cylinder wall reaching without appreciable deformation over the collar when the dog engages in the recess, the cylinder wall being elastically deformed at least in the region of the dog when the dog abuts on the collar outside the recess. This produces an

especially expedient development of a snap device. About one-half turn before the final sealed position, the dog begins to slide up on to the collar, in which as a result of the screw principle, the distance component in the tangential direction amounts to a multiple of the pure axial component. Accordingly, the snap device is finely sensitive and precise.

The collar and dog have ramp flanks facing one another in order to facilitate axial sliding up of the dog on to the collar. The recess and the dog have ramp flanks facing one another in the engagement position in order to facilitate tangential sliding of the dog up on the collar upon the opening of the screw stopper. This serves so that the closure and opening of the screw stopper are hindered as little as possible.

The external threads and internal threads have a diameter of about 30 to 50 mm. with a pitch of about 5 mm. and extend axially over about 15 to 25 mm., and the collar extends radially about 2 mm. beyond the external threads and the collar and the cylinder wall have an axial extent of about 5 mm. The dog extends radially inwards about 1 to 2 mm., extends from the edge of the cylinder wall axially in the direction of the cap top about 2 to 6 mm. and is about 2 mm. long in the circumferential direction; and the recess at least somewhat exceeds these dog dimensions in depth, height and width. This indicates dimensioning data recognized to be especially expedient.

The seal is a sealing ring fixed in the region of the cap top. The sealing ring is comprised by rubber. This states an expedient further development with regard to the formation of the seal.

DESCRIPTION OF THE DRAWING

The invention will be explained in greater detail below by reference to an example of embodiment represented in the drawing, wherein:

FIG. 1 shows a lateral elevation of a screw stopper according to the invention, partially in section,

FIG. 2 shows a section in the plane 2—2 in FIG. 1.

DETAILED DESCRIPTION

A can 11 in known manner comprises a pouring spout 12 having a collar 13 and an external threading 14 reaching approximately to the edge 16 of the spout. The spout edge 16 is formed as a flat annular surface.

The screw stopper further comprises a screw cap 17 with a corresponding internal threading 18 and a seal 21 in the form of a sealing ring arranged between its cap top 19 and the spout edge 16.

The screw cap 17 is held on the can non-losably by means of a retaining strap fixed beneath the collar 13.

The position of the screw cap as represented in FIG. 1 corresponds to a position in which the seal 21 is just in contact with the spout edge 16. In this position the seal 21 has an axial extent 23 for example of 2 mm. By further closure screwing of the screw cap 17 the cap top 19 is applied further against the spout edge 16 by a press stroke 24 with simultaneous compression of the seal 21. Let it now be assumed that this press stroke can amount to about 1 mm., and on exceeding of this stroke either the engagement between internal threading 18 and external threading 14 is overloaded or the seal 21 is irreversibly deformed, so that it sacrifices its function. Thus it has to be ensured that the seal 21 on the one hand is compressed by approximately this press stroke 24, but on the other hand this press stroke 24 is not exceeded.

TriForest Ent v. Nalgene

Opposition No. 91165809

Serial No. 76/572,253

Opposer TriForest Ent's Exhibit 4

The constructional formation of the screw stopper as set forth hitherto corresponds to an embodiment known per se.

In order now to indicate to the user when this ideal seal condition is reached, the snap device as described in greater detail below is formed between the screw cap 17 and the pouring spout 12.

For this purpose on the end face of the screw cap 17 preceding the internal threading 18 an axially overhanging cylinder wall 26 is formed which comprises at least one radially inwardly directed dog 27. The collar 13 in this example of embodiment is present in any case, since it serves for the fixing of the retaining strap 22. Now however it also takes over an additional function. The sole modification on the can consists now in that this collar 13 is provided with a radially receding recess 28. It is understood that in the case of two opposite dogs, correspondingly two opposite recesses are also to be provided. Now the recess 28 is somewhat larger in its dimensions than the dog 27, so that the latter can enter it freely. The internal diameter of the cylinder wall 26 is adapted so that the cylinder wall reaches over the collar 13 without appreciable deformation when the dog 27 engages in the recess 28. However the cylinder wall 26 is elastically deformed at least in the region close to the dog 27 as long as the dog 27 abuts on the collar 13 outside the recess 28.

In the course of the closure of the screw stopper, about a half revolution to one revolution before the final closure position the dog 27 begins to slide up on to the collar 13 in a combined axial and tangential movement. This sliding is facilitated by the fact that the mutually facing surfaces are formed as wedge surfaces 29 and 31. As soon as approximately the limit of the permissible press stroke 24 is reached, the dog 27 snaps into the recess 28 and the part of the cylinder wall 26 deformed hitherto springs back into its relaxed rest position. The generation of a sufficiently loud snap noise is here promoted by the fact that the receding cylinder wall 26 strikes at least briefly against the collar 13, which then in turn transmits the vibration to the can 11 with its large sound radiation area.

In order to facilitate the sliding of the dog 27 on to the collar 13 in the opening of the screw stopper, the surfaces of dog 27 and recess 28 which face one another in the position of engagement have ramp flanks 32 and 33. Small roundings in this sense are to be regarded as equivalent to ramp flanks.

It is also to be pointed out that the snapping of the dog 27 into the recess 28 in a screw stopper of the classification in question is practically not effective in the sense of securing a closed position. In order correctly to close a can for fuel in fact a considerable press force has to be applied in the seal region and the resultant friction forces by far outweigh the possible retaining force of the snap device, so that the latter is practically insignificant.

In the example of embodiment the cylinder wall 26 is closed upon itself, whereby the advantage of greater insensitivity to destruction or deformation of this region 60

of the screw cap is obtained. The illustration in the drawing is approximately to scale and as regards the dimensions typical for such a screw stopper.

I claim:

1. Screw stopper for a fuel can of synthetic plastic material, comprising a pouring spout with external threads; a screw cap with internal threads screwable on the external threads of the pouring spout, and an elastically deformable seal arranged between the top of the screw cap and the edge of the pouring spout, wherein the cap top, after initial contact with the seal can be further pressed by an axial press stroke having a length exceeding which, the seal is irreversibly deformed or the engagement between internal and external threads is overloaded; further comprising the improvement wherein a snap device is provided between the screw cap and the pouring spout, in a manner such that on closure of the screw cap an acoustic signal is generated as soon as a predetermined spacing, within the range of the length of the press stroke, is reached between the cap top and the spout edge.

2. Screw stopper according to claim 1, comprising an axially overhanging cylinder wall on the end of the screw cap preceding the internal threads, having at least one radially inwardly directed dog in the region of the cylinder wall; and an annular collar with a radially receding recess on the pouring spout in the region remote from the spout edge, the cylinder wall reaching without appreciable deformation over the collar when the dog engages in the recess, the cylinder wall being elastically deformed at least in the region of the dog when the dog abuts on the collar outside the recess.

3. Screw stopper according to claim 2, wherein the collar and dog have ramp flanks facing one another in order to facilitate axial sliding up of the dog on to the collar.

4. Screw stopper according to claim 2, wherein the recess and the dog have ramp flanks facing one another in the engagement position in order to facilitate tangential sliding of the dog up on the collar upon the opening of the screw stopper.

5. Screw stopper according to claim 1, wherein the external threads and internal threads have a diameter of about 30 to 50 mm. with a pitch of about 5 mm. and extend axially over about 15 to 25 mm., and the collar extends radially about 2 mm. beyond the external threads and the collar and the cylinder wall have an axial extent of about 5 mm.

6. Screw stopper according to one of claims 2 or 5 wherein the dog extends radially inwards about 1 to 2 mm., extends from the edge of the cylinder wall axially in the direction of the cap top about 2 to 5 mm. and is about 2 mm. long in the circumferential direction; and the recess at least somewhat exceeds these dog dimensions in depth, height and width.

7. Screw stopper according to claim 1, wherein the seal is a sealing ring fixed in the region of the cap top.

8. Screw stopper according to claim 7, wherein the sealing ring is comprised by rubber.

* * * * *

Int. Cl.: 3

Prior U.S. Cls.: 1, 4, 6, 50, 51 and 52

Reg. No. 2,287,138

United States Patent and Trademark Office

Registered Oct. 19, 1999

**TRADEMARK
PRINCIPAL REGISTER**



WARNER-LAMBERT COMPANY (DELAWARE
CORPORATION)
201 TABOR ROAD
MORRIS PLAINS, NJ 07950

FOR: MOUTHWASH, IN CLASS 3 (U.S. CLS.
1, 4, 6, 50, 51 AND 52).

FIRST USE 5-11-1989; IN COMMERCE
5-11-1989.

OWNER OF U.S. REG. NOS. 41,413, 1,661,370
AND OTHERS.

THE LINING SHOWN ON THE CAP IS NOT
A FEATURE OF THE MARK, AND IS NOT IN-
TENDED TO DESIGNATE COLOR.

THE MARK IS COMPRISED OF THE CON-
FIGURATION OF A CONTAINER.

SER. NO. 75-396,392, FILED 11-26-1997.

SHAUNIA WALLACE, EXAMINING ATTOR-
NEY

TriForest Ent v. Nalgene

Opposition No. 91165809

Serial No. 76/572,253

Opposer TriForest Ent's Exhibit 5

Int. Cl.: 3

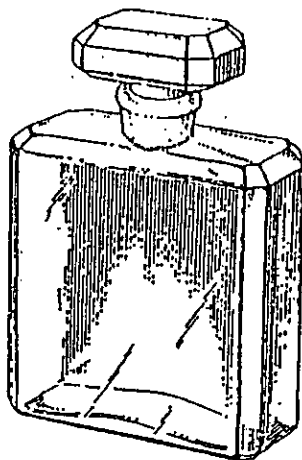
Prior U.S. Cls.: 1, 4, 6, 50, 51 and 52

United States Patent and Trademark Office

Reg. No. 2,382,784

Registered Sep. 5, 2000

**TRADEMARK
PRINCIPAL REGISTER**



CHANEL, INC. (NEW YORK CORPORATION)
9 WEST 57TH STREET
NEW YORK, NY 10019

FOR: PERFUME, EAU DE PARFUM, IN CLASS
3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

FIRST USE 0-0-1924; IN COMMERCE 0-0-1924.
OWNER OF U.S. REG. NO. 1,687,481.

THE LINING IS A FEATURE OF THE MARK AND
DOES NOT INDICATE COLOR. THE STIPPLING IN
THE DRAWING IS USED TO INDICATE SHADING
AND IS NOT A FEATURE OF THE MARK.
SEC. 2(F).

SER. NO. 75-708,057, FILED 5-18-1999.

MICHAEL KEATING, EXAMINING ATTORNEY

TriForest Ent v. Nalgene

Opposition No. 91165809

Serial No. 76/572,253

Opposer TriForest Ent's Exhibit 6

01-26-2004

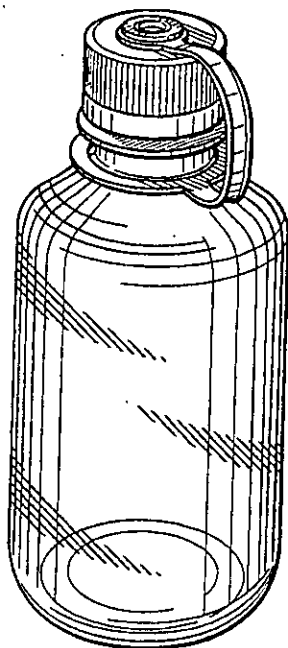
U.S. Patent & TMO/TM Mail Rept Dt. #7E

TRADEMARK

Applicant: Nalge Nunc International Corporation
Address: 75 Panorama Creek Drive, Rochester, New York 14602-0365

Date of First Use Anywhere: At least as early as April 19, 1992
Date of First Use in Commerce: At least as early as April 19, 1992
Goods: Plastic water bottle, sold empty, in International Class 21.

Mark: The mark consists of a plastic water bottle as shown, namely, a plastic water bottle having a transparent, generally cylindrical container body with rounded shoulders interconnecting the upper and lower extremities of a cylindrical sidewall to a relatively narrow container neck and a generally flat, circular container bottom, respectively; an opaque screw cap releasably engaged with threads on the upper portion of the neck and having a button connected to the center of its top surface via a short stem; and a strap terminating in small and large annular rings respectively encircling the button stem and the lower portion of the neck such that the large annular ring is spaced apart and visually distinct from the screw cap, wherein the ratio of the diameter of the generally cylindrical container body to the overall height of the water bottle is approximately 0.4 and the ratio of the height of the generally cylindrical container body extending between the neck and the container bottom to the overall height of the water bottle is approximately 0.8.

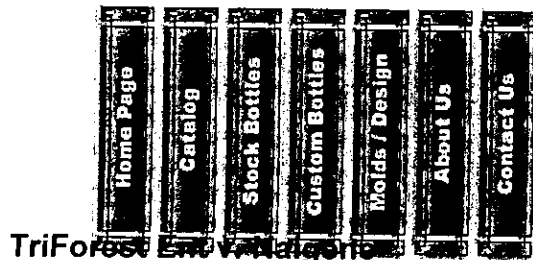


TriForest Ent v. Nalgene
Opposition No. 91165809
Serial No. 76/572,253
Opposer TriForest Ent's Exhibit 7

U.S. Patent & TM Off/TM



76572253



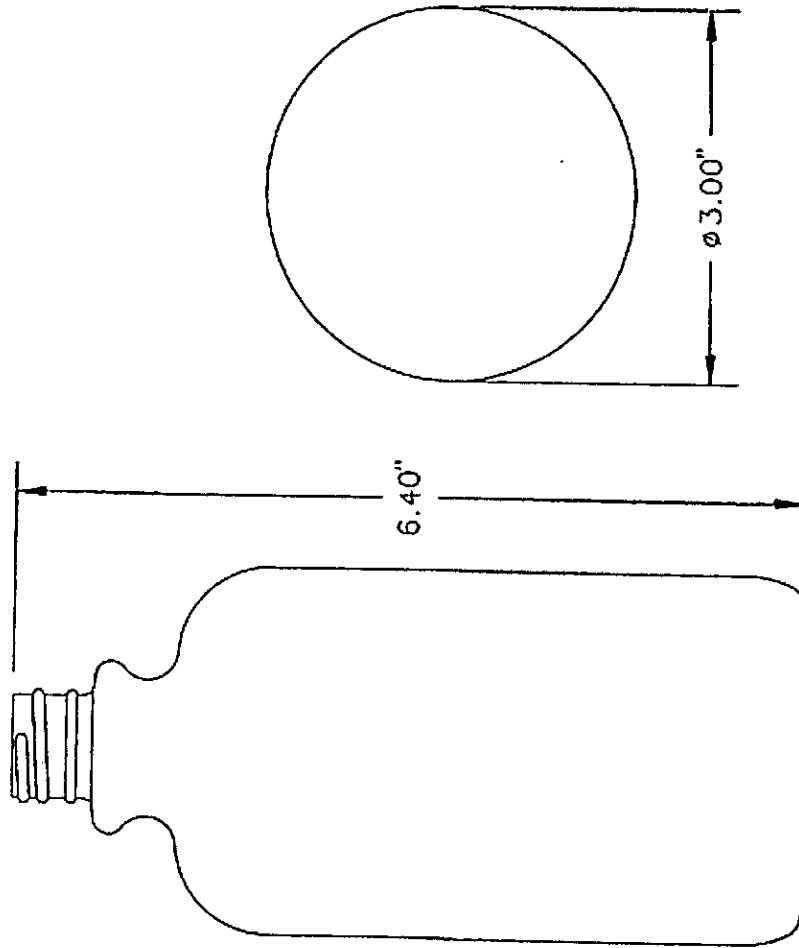
TriForest Ent v. Walgreen

Opposition No. 91165809

Serial No. 76/572,253

Opposer TriForest Ent's Exhibit 8

Quality that Makes the Difference
Catalog
18oz Boston Round



Product #: 1-2440

Product Name: Boston Round

This product has options. See product details below.

Description: 18 oz tincture bottle, 24-410 neck finish, estimated gram weight of 42, bottles are packed in bulk service cartons in poly bags

Pricing Information:

Package Price: QUOTE
Unit Price: QUOTE
Package Type: Box
Units Per Package: 147

Product Details:

Capacity (oz.) : 18
Neck Finish: 24-410
Material: PVC

Color:
Est. Gram Weight:

Packaging: 147 per case
Minimum Order Quantity: 2500

Name	<input type="text"/>
Title	<input type="text"/>
Company Name	<input type="text"/>
Address	<input type="text"/>
City	<input type="text"/>
State	<input type="text"/>
Postal Code	<input type="text"/>
Country	<input type="text"/>
Phone Number	<input type="text"/>

Fax Number

Email Address (Ex. info@bomatic.com):

Please send my inquiry

Clear All

TriForest Ent v. Nalgene
Opposition No. 91165809
Serial No. 76/572,253
Opposer TriForest Ent's Exhibit 8



STOCK PRODUCT LINE

Rounds **Dairy / Juice** **F-Style** **Handley Jars / Other**
Widemouth Jars **Packer Jars** **Environmental Fair Bail**

MARKETS SERVED

Ind / Agricultural **Motor Oil / Gear Oils** **Juice & Beverages** **Health & Nutrition**
Food **Personal Care** **Toys & Specialty** **Pool Care** **Medical Devices**

Rounds

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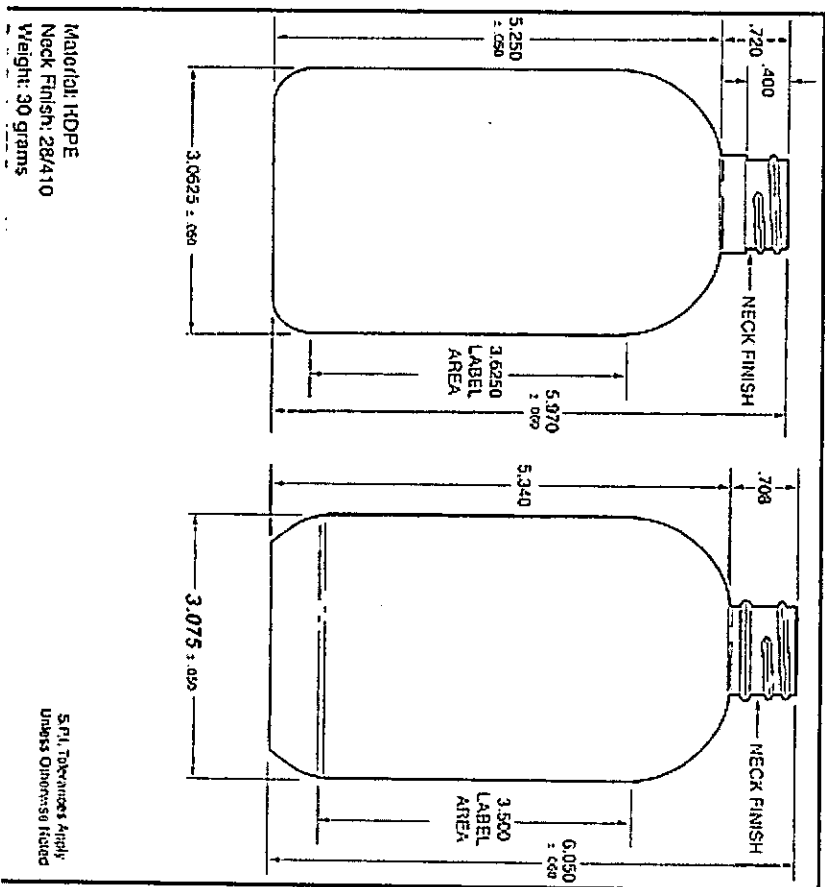
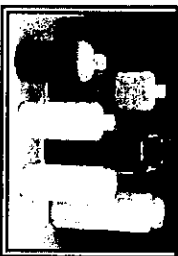
[Contact Mayfair](#)

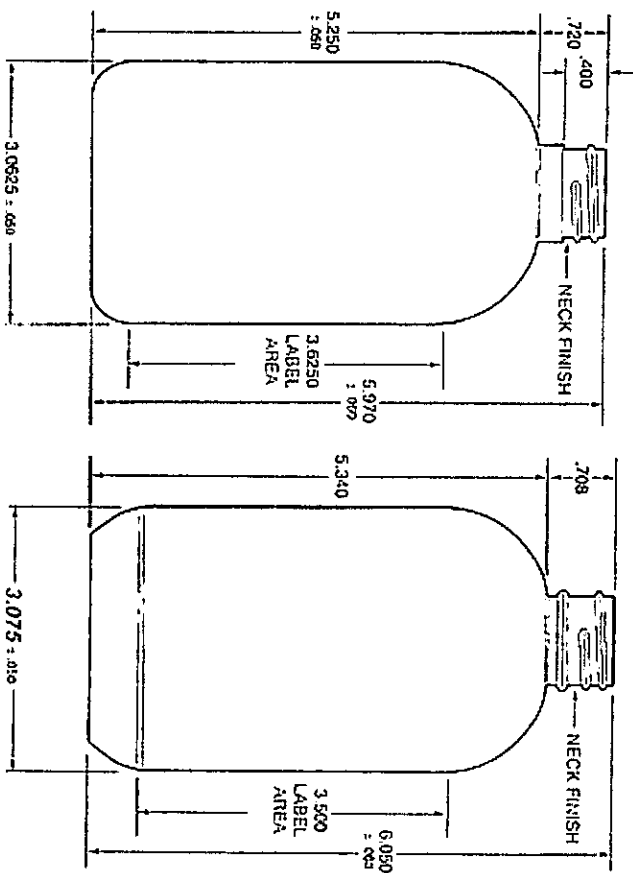
[Request Samples](#)

[Consolidated Container](#)

16 oz.

Boston Round





Material: HDPE
 Neck Finish: 28/410
 Weight: 30 grams
 Bulk Pack: 175 Box w/Liner
 Box Size: 23 x 15 7/16 x 29 7/8 in.
 Box Weight: 15 lbs.

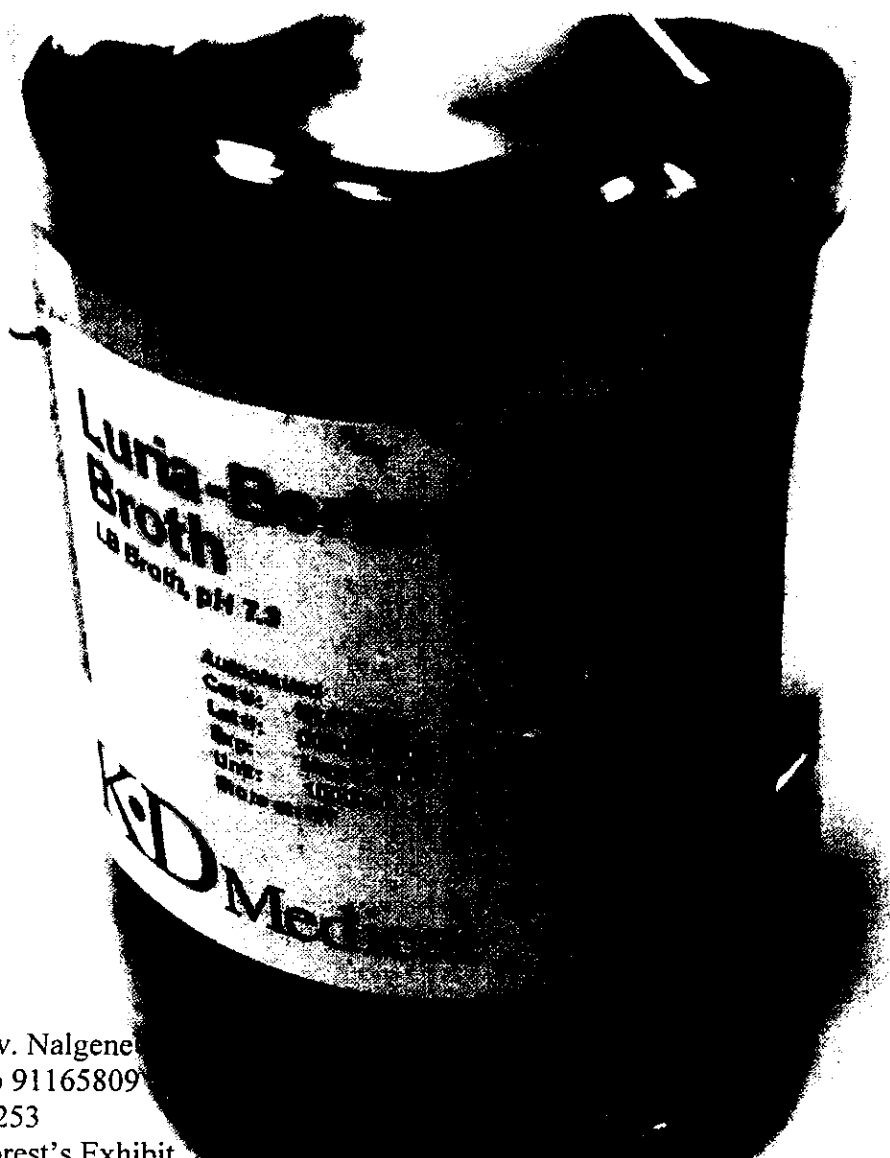
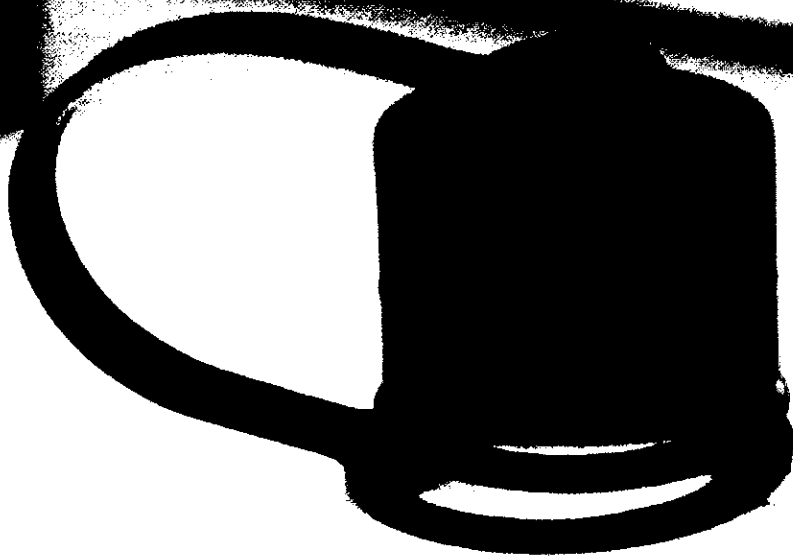
S.P.1 Tolerances Apply
 Unless Otherwise Noted



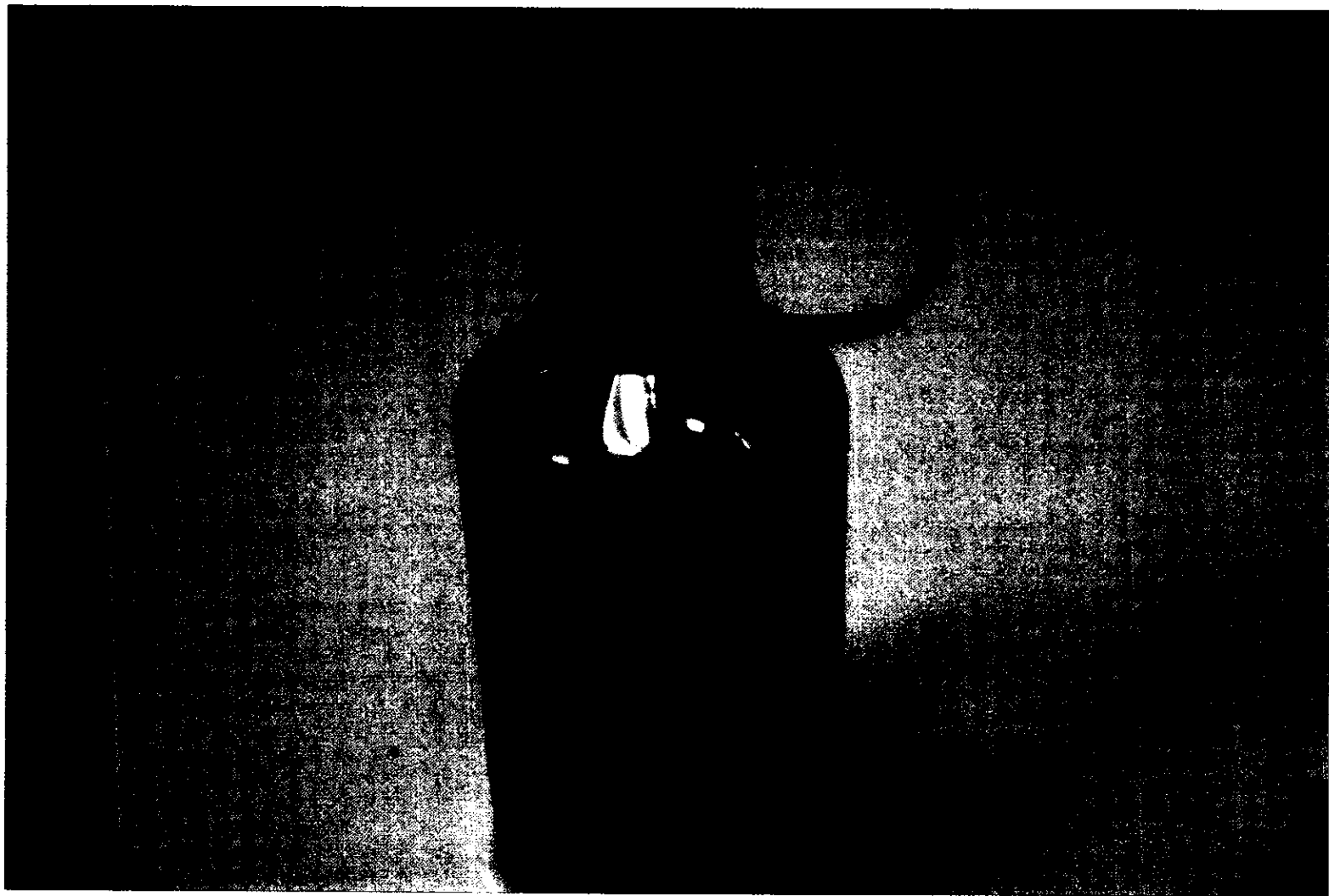
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TriForest Ent v. Nalgen
Opposition No 91165809
Serial #76572253
Opposer TriForest's Exhibit 10



TriForest Ent v. Nalgene
Opposition No 91165809
Serial #76572253
Opposer TriForest's Exhibit



TriForest Ent v. Nalgene

Opposition No 91165809

Serial #76572253

Opposer TriForest's Exhibit 11



TriForest Ent
Opposition M
Serial #7657
Opposer TriF



TriForest Ent v. Nalgene

Opposition No 91165809

Serial #76572253

Opposer TriForest's Exhibit 12

To Order: www.vwr.com 1.800.932.5000

Boston Round Bottles, with Caps, I-CHEM®

Amber and clear glass bottles for use in the analysis of semivolatiles, pesticides, PCB's, and metals. Convenient, sturdy bottles for general sampling and use. Amber glass bottles are designed for light-sensitive samples.



I-CHEM Certified® 200 and 300 series bottles are processed to meet or exceed "US EPA Specifications and Guidance for Contaminant-Free Sample Containers." I-CHEM Certified 300 series bottle includes a Certificate of Analysis with a bar-coded production number in every case. Each bottle in the 300 series has a bar-code label for absolute traceability and for use with automated sample tracking systems.

I-CHEM 100 Series bottles, for general use, are not processed or certified.

Ordering Information: Available in amber and clear glass. With Teflon® resin-lined polypropylene caps attached.

Capacity, mL (oz.)	Glass Type	Cap Size	Cat. No.	Case of 12
I-CHEM Certified 300 Series				
125 (4)	Amber	24-414	IR349-0125	27.70
125 (4)	Clear	22-400	IR329-0125	24.54
250 (8)	Amber	24-414	IR349-0250	30.33
250 (8)	Clear	24-414	IR329-0250	32.11
500 (16)	Amber	28-400	IR349-0500	36.21
500 (16)	Clear	28-400	IR329-0500	42.80
1000 (32)	Amber	33-400	IR349-1000	61.33
1000 (32)	Clear	33-400	IR329-1000	45.74
I-CHEM Certified 200 Series				
125 (4)	Amber	24-414	IR249-0125	21.07
125 (4)	Clear	22-400	IR229-0125	27.76
250 (8)	Amber	24-414	IR249-0250	23.54
250 (8)	Clear	24-414	IR229-0250	23.84
500 (16)	Amber	28-400	IR249-0500	31.33
500 (16)	Clear	28-400	IR229-0500	29.54
1000 (32)	Amber	33-400	IR249-1000	39.60
1000 (32)	Clear	33-400	IR229-1000	38.54
I-CHEM 100 Series				
125 (4)	Amber	24-414	IR149-0125	21.87
125 (4)	Clear	22-400	IR129-0125	21.87
250 (8)	Amber	24-414	IR149-0250	22.62
250 (8)	Clear	24-414	IR129-0250	22.62
500 (16)	Amber	28-400	IR149-0500	38.07
500 (16)	Clear	28-400	IR129-0500	34.88
1000 (32)	Amber	33-400	IR149-1000	35.76
1000 (32)	Clear	33-400	IR129-1000	37.54

Boston Round Bottles, with Open-Top Caps, I-CHEM®

I-CHEM Certified® 200 and 300 series glass bottles are processed to meet or exceed "US EPA Specifications and Guidance for Contaminant-Free Sample Containers." I-CHEM Certified 300 series bottles include a Certificate of Analysis with a bar-coded production number in every case. Each bottle in the 300 series has a bar-code label for absolute traceability.



I-CHEM 100 Series bottles, for general use, are not processed or certified.

Ordering Information: Available in clear or amber glass. Supplied with open-top polypropylene screw caps with 0.125" Teflon®/silicone septa.

Capacity, mL (oz.)	Glass Type	Cap Size	Cat. No.	Case of 12
I-CHEM Certified 300 Series				
125 (4)	Amber	24-414	IRS49-0125	32.15
250 (8)	Clear	24-414	IRS29-0250	53.16
250 (8)	Amber	24-414	IRS49-0250	33.11
I-CHEM Certified 200 Series				
125 (4)	Amber	24-414	IRS249-0125	24.38
250 (8)	Clear	24-414	IRS229-0250	30.16
250 (8)	Amber	24-414	IRS249-0250	25.74
I-CHEM 100 Series				
125 (4)	Amber	24-414	IRS149-0125	37.60
250 (8)	Clear	24-414	IRS129-0250	19.42
250 (8)	Amber	24-414	IRS149-0250	28.93

Boston Round Bottles, with Caps, Eagle-Picher®

Level 1 containers are certified to meet or exceed EPA standards for metals, pesticides, and semi-volatiles. Each case is custody sealed. Each container is lot number labeled for traceability to the enclosed Certificate of Analysis.



Level 3 containers do not receive an EPA certification and are ready for your own cleaning procedure. Containers are assembled and meet EPA recommended guidelines for sample container material component specifications.

Eagle-Picher offers custom cleaning services for additional applications. Contact your VWR sales representative for more information.

Ordering Information: Available in clear or amber glass. Bottles include polypropylene caps with Teflon® resin liners.

Capacity, mL (oz.)	Glass Type	Cap Size	Cat. No.	Case of 12
Level 1				
125 (4)	Amber	24-414	EP115-125A	25.01
250 (8)	Amber	24-414	EP114-250A	27.75
500 (16)	Amber	28-400	EP113-500A	31.67
500 (16)	Clear	28-400	EP113-500C	36.33
1000 (32)	Amber	33-400	EP112-01A	35.55
1000 (32)	Clear	33-400	EP112-01C	39.65
Level 3				
125 (4)	Amber	24-414	EP315-125A	20.37
250 (8)	Amber	24-414	EP314-250A	19.03
500 (16)	Amber	28-400	EP313-500A	24.56

See Also...

For plastic-coated Boston Rounds, see the *Bottles, Safety Coated* section.

TriForest Ent v. Nalgene
Opposition No. 91165809
Serial No. 76/572,253
Applicant Nalge Nunc Int'l Inc Exhibit 13

Media Bottles, Graduated, Wheaton

Borosilicate clear Type I glass bottles have approximate graduations and large writing area. Large opening and no-drip pour ring make bottles easy to clean.

For replacement caps, see 16160-108 series.

Ordering Information: Choose from bottles without caps, with Teflon® resin-lined caps, polyethylene-lined caps, or rubber-lined caps.



Capacity, mL (oz.)	Graduation Range, mL	Graduation Interval, mL	Cap Size	Wheaton No.	Cat. No.	Case of
Without Cap						
125 (4)	25-125	50	33-430	219435	16159-700	48/ 104.85
250 (8.5)	50-250	50	33-430	219437	16159-732	48/ 149.27
500 (17)	100-400	50	33-430	219439	16159-788	24/ 114.07
1000 (33.8)	100-900	50	38-430	219440	16159-823	24/ 144.99
With Teflon Resin-Lined Cap†						
125 (4)	25-125	50	33-430	219815	16159-845	48/ 144.99
250 (8.5)	50-250	50	33-430	219817	16159-856	48/ 180.71
500 (17)	100-400	50	33-430	219819	16159-869	24/ 143.92
1000 (33.8)	100-900	50	38-430	219820	16159-903	24/ 177.45
With Polyethylene-Lined Cap						
125 (4)	25-125	50	33-430	219715	16159-520	48/ 140.11
250 (8.5)	50-250	50	33-430	219717	16159-522	48/ 204.18
500 (17)	100-400	50	33-430	219719	16159-524	24/ 150.38
1000 (33.8)	100-900	50	38-430	219720	16159-526	24/ 164.77
With Rubber-Lined Cap†						
125 (4)	25-125	50	33-430	219755	16159-925	48/ 135.26
250 (8.5)	50-250	50	33-430	219757	16159-947	48/ 173.12
500 (17)	100-400	50	33-430	219759	16159-980	24/ 133.10
1000 (33.8)	100-900	50	38-430	219760	16159-991	24/ 165.56

† Autoclavable

Square Media Bottles, PETG, Sterile, Graduated, NALGENE®

Graduated polyethylene terephthalate copolyester bottles are inexpensive alternatives to glass media bottles. Break-resistant and durable. Transparency and reduced permeability to CO₂/O₂ allow media storage up to six months. White high-density polyethylene screw closure bottles meet USP Class VI standards and are noncytotoxic. Bottles and closures are radiation-sterilized and nonpyrogenic. Heat shrink band around closure and neck provides tamper-evident seal for assurance of sterility. Leakproof.

For replacement caps, see 16219-112 series.

Ordering Information: Packed in shrink-wrapped trays.



Capacity, mL (oz.)	Graduation Range, mL	Graduation Interval, mL	Cap Size	NAL No.	Cat. No.	Case of
30 (1)	10-30	10	20-415	2018-0030	16159-126	96/ 121.87
60 (2)	10-60	10	24-415	2019-0060	16159-128	96/ 158.76
125 (4)	25-125	25	38-430	2019-0125	16159-130	48/ 115.97
250 (8.5)	25-250	25	38-430	2019-0250	16159-132	48/ 143.28
500 (17)	50-500	50	38-430	2019-0500	16159-134	24/ 180.84
1000 (33.8)	100-1000	50	38-430	2019-1000	16159-136	24/ 137.25
2000 (67.6)	200-2000	100	538	2019-2000	16159-138	12/ 117.09

PYREX® brand Specific Gravity Bottle, Hubbard-Carmick

For viscous fluids, semi-solid bitumens and emulsions according to ASTM D70. Includes 24/12 $\frac{3}{4}$ stopper. Approximate capacity: 25mL. Dimensions: 40 dia. x 57 mm high. (Coming* 1620-25)



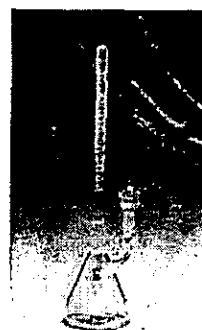
16622-000

Each 93.08

Case of 12/ 720.60

KIMAX® brand Specific Gravity Bottles, Pycnometer

Serialized. With thermometer $\frac{3}{4}$ joints. The body is conical to give maximum stability, and capacity is within 10% of the nominal capacity shown on flask. The thermometer is enclosed, milk-glass scale type. Range: +14° to 37°C in 0.2°. Accuracy within $\pm 0.2^\circ\text{C}$. Cap for the side tube has a small vent near the top. $\frac{3}{4}$ joint sizes: thermometer, 10/18; cap, 5/12. The 50mL-size is used to obtain the specific gravity of pigments (ASTM D153).



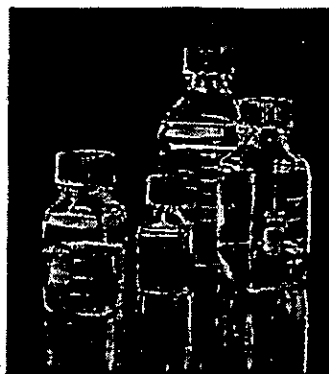
Capacity, mL	Kimble No.	Cat. No.	Case of 1
10	15123R-10	16628-029	138.05
25	15123R-25	16628-041	136.85
50	15123R-50	16628-062	141.50
Replacement Parts			
Thermometer, 10 and 25 mL	15123-11025	16628-057	78.45

PYREX® Brand Square Bottles, Graduated

PYREX borosilicate glass provides exceptional chemical and thermal resistance. Square design saves 13-20% of shelf space, and slightly convex walls minimize glass-to-glass contact during autoclaving. Rounded edges allow easy cleaning. Bottles feature white graduations and a large marking spot. A glass ridge molded into the bottle indicates full capacity. Autoclavable. Bottles can withstand freezing to -40°C (-40°F).

When used with a PBT high-temperature cap and ETFE pouring ring 16157-497 (see 16157-071 series), bottles can withstand repeated sterilization cycles up to 180°C (356°F) dry heat.

Ordering Information: Each bottle is supplied with a linerless, autoclavable, one-piece, orange polypropylene screw cap with a drip-free pouring ring. See the 16157-071 series of media bottles for replacement caps, pouring rings, open top caps, and septa.



Capacity, mL (oz.)	GPI Thread Finish	Graduation Range, mL	Graduation Interval, mL	Coming* No.	Cat. No.	Case of 10
Square Bottles						
100 (3.4)	GL32	40-60	20	1396-100	11310-680	81.60
250 (8.5)	GL45	50-200	50	1396-250	11310-682	91.40
500 (17)	GL45	100-400	100	1396-500	11310-684	114.10
1000 (33.8)	GL45	100-900	100	1396-1L	11310-686	148.40
Open Red PBT High Temperature Caps						
—	GL25	—	—	1395-25HTSC	11310-692	27.90
—	GL32	—	—	1395-32HTSC	11310-690	32.60
—	GL45	—	—	1395-45HTSC	11310-688	56.10
Silicone Septa						
—	GL25	—	—	1395-25SS	11310-698	14.50
—	GL32	—	—	1395-32SS	11310-696	15.78
—	GL45	—	—	1395-45SS	11310-694	47.58
PTFE-Faced Silicone Septa						
—	GL25	—	—	1395-25TS	11310-704	16.70
—	GL32	—	—	1395-32TS	11310-702	22.68
—	GL45	—	—	1395-45TS	11310-700	40.10

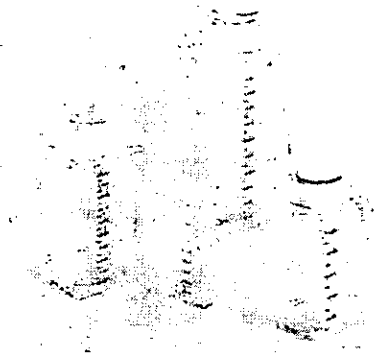
Square Biotainer® Bottles, PETG, Sterile, Graduated, NALGENE®

Bottles feature a space-saving square shape and indented, ribbed hand-grips for easy gloved-hand use. Wide mouths and necks provide easy access to the contents. A drip-control ring allows clean pouring. Each bottle has a minimum headroom of 20% for supplement addition. Easy-to-read graduations are printed on bottles.

The clear PETG (polyethylene terephthalate, glycol modified) material offers a good gas barrier to protect biological contents. Radiation-stabilized polypropylene closures include an HDPE liner.

Carton labels are printed with lot number and sterility expiration dates for specific identification and traceability.

Bottle, closure, and liner materials meet USP XXIII Class VI standards. Noncytotoxic and nonpyrogenic. Sterile.



Capacity, mL (oz.)	Graduation Range, mL	Graduation Interval, mL	Cap Size, mm	Neck I.D., mm	Bottle O.D., mm	NMI No.	Cat. No.	Case of
125 (4)	25-125	25	35	26	52	342519-0125	43300-002	100/ 216.31
500 (17)	50-500	50	38	26	77	342519-0500	43300-008	70/ 238.59
1000 (33.8)	100-1000	50	48	37	98	342519-1000	43300-012	35/ 237.35
2000 (67.6)	100-2000	50	48	37	116	342519-2000	43300-020	20/ 207.71

Media Squares® Media Bottles, PET, Graduated, Wheaton

Sterile lightweight bottles offer the clarity of glass with the strength of polyethylene terephthalate. Tested superior for pH stability, temperature durability, and cloning efficiency. No-drip pour lip offers clean, fast, easy pouring. Permanent molded-in graduations provide accurate volume determination at a glance.

Polypropylene caps are lined with foamed polyethylene. GPI Thread Finish: 33-430.

Ordering Information: Bottles with caps attached are packed in convenient shrink-wrapped trays.



Capacity, mL (oz.)	Graduation Range, mL	Graduation Interval, mL	Wheaton No.	Cat. No.	Case of
125 (4)	25-125	50	219975	16149-166	48/ 82.29
500 (17)	100-500	50	219979	16149-168	24/ 71.45
1000 (33.8)	100-1000	50	219980	16149-169	24/ 101.82



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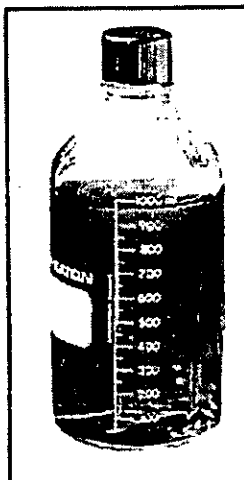
Search

Cole-Parmer Catalog > Labware™ > Bottles > Narrow-Mouth Bottles > Economy Sample Bottles

Product Detail

EW-08913-25 (1 of 3) [Next]

Economy Sample Bottles



click to enlarge

EW-08913-25
Economy sample bottle; graduated, 250 mL

Qty:
Add To Cart

\$194.51 (USD)

In stock.

Literature

01-02_Catalog

03-04_Catalog

Large writing area allows for easy identification

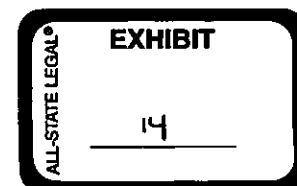
These economy bottles are manufactured with USP type I borosilicate glass to maintain purity of contents. Special lip and sloping shoulders make pouring and cleaning easy.

Sample bottles are graduated to approximate volume; label space allows clear identification. Bottles include chemical-resistant, TEFLON PTFE-lined screw caps (size 33 mm). Bottles and caps are autoclavable.

Specifications

Capacity	250 mL
Material	USP Type I borosilicate glass
Cap/stopper size	33-430
Graduation interval	25 mL
Dimensions	152 mm H x 67 mm OD
Autoclavable	Yes

TriForest Ent v. Nalgene
Opposition No. 91165809
Serial No. 76/572,253
Applicant Nalge Nunc Int'l Inc Exhibit 14



Labware

Bottles — Sample

**buy more,
save more**

5-9 cases
save 10%

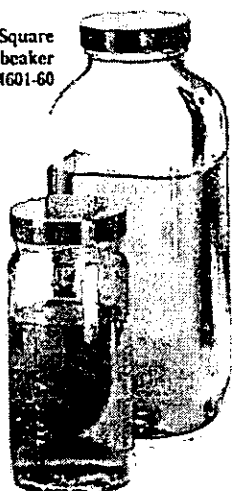
GLASS / CERAMICWARE

10+ cases
save 15%

Mix and match
cases of any items
from the "red"
tables to save!

Square
bottle beaker
34601-60

Round
bottle
beaker
34601-40



Graduated Qorpak® Bottle Beakers

These sealable glass beakers from Qorpak® are ideal for samples that need to be monitored or measured as they are used. Each is made of clear, undistorted, USP Type III soda-lime glass, and graduated in both milliliters and ounces. Wide-mouth design reduces the risk of spillage during transfer. Teflon®-lined, thermostet screw-on caps ensure samples remain unaffected by airborne contaminants like gas, oil or chemical fumes. Special 32-oz bottle utilizes a French square design that allows an economical use of shelf space and makes the container easier to grip when pouring.

Capacity mL (oz)	Neck size	Graduations mL (oz)	Catalog number	Qty/ cs	Price/ cs
30 (1)	33 mm	5 (0.25)	U-34601-10	48	
60 (2)	38 mm	5 (0.25)	U-34601-20	48	
120 (4)	48 mm	5 (0.25)	U-34601-30	24	
240 (8)	58 mm	20 (0.25)	U-34601-40	24	
480 (16)	70 mm	20 (0.25)	U-34601-50	24	
960 (32)	58 mm	25 (0.25)	U-34601-60	12	



Save up
to 15%
with
quantity
discounts!

Qorpak® Sample Bottles with Teflon® PTFE-Lined Caps

Manufactured from commercial USP Type III soda-lime glass, these clear, round-shouldered sample bottles from Qorpak® offer the integrity and convenience of glass container storage but at significant savings. Each comes with a foam-backed, Teflon® PTFE cap liner that resists attack from virtually all chemicals at room temperature, ensuring a tight seal to protect liquid samples as well as dry. Bottles ship ready to use with screw-on caps in place, and a supply of self-adhesive labels. Caps are not autoclavable.

Capacity mL (oz)	Neck size	Shpg wt* lb (kg)	Catalog number	Qty/ cs	Price/ cs
30 (1)	20 mm	5 (2.3)	U-34602-10	48	
60 (2)	20 mm	4 (1.9)	U-34602-20	24	
120 (4)	22 mm	6 (2.8)	U-34602-30	24	
240 (8)	24 mm	10 (4.6)	U-34602-40	24	
480 (16)	28 mm	8 (3.7)	U-34602-50	12	
960 (32)	33 mm	14 (6.4)	U-34602-60	12	

*Shipped f.o.b. Burlington, NJ, U.S.A.
Qorpak—Reg TM All-Pak, Inc.

Teflon—Reg TM E. I. DuPont de Nemours & Co



More info

Additional
sampling
containers
and supplies
can be found on
pages 888-894.

WHEATON Economy Sample Bottles

► Large writing area allows for easy identification

These economy bottles are manufactured with USP Type I borosilicate glass to maintain purity of contents. Special lip and sloping shoulders make pouring and cleaning easy.

Sample bottles are graduated to approximate volume; label space allows clear identification. Bottles include chemical-resistant, Teflon® PTFE-lined screw caps (size 33-mm). Bottles and caps are autoclavable.

Capacity mL	Graduation intervals	Dimensions (H x OD)	Screw cap size	Catalog number	Qty/ cs	Price/ cs
125	25 mL	123 x 55 mm	33-430	U-08913-15	48	
250	25 mL	152 x 67 mm	33-430	U-08913-25	48	
500	50 mL	192 x 88 mm	33-430	U-08913-45	24	
1000	50 mL	235 x 103 mm	38-430	U-08913-55	24	

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6-29 packs 30-119 packs 120+ packs
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 Mix and match packs of any items
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WHEATON Economy Sample Bottles

- Large writing area allows for easy identification

These economy bottles are manufactured of USP Type I borosilicate glass to maintain purity of contents. Special lip and sloping shoulders make pouring and cleaning easy.

Sample bottles are graduated to approximate volume; label space allows clear identification. Bottles include chemical-resistant, Teflon® PTFE-lined screw caps. Bottles and caps are autoclavable.

Capacity (mL)	Graduation intervals	Dimensions (H x OD)	Screw cap size	Catalog number	Qty/cs	Price/cs
125	25 mL	123 x 55 mm	33-430	A-08913-15	48	
250	25 mL	152 x 67 mm	33-430	A-08913-25	48	
500	50 mL	192 x 88 mm	33-430	A-08913-45	24	
1000	50 mL	235 x 103 mm	38-430	A-08913-55	24	



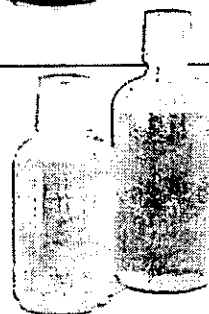
More info

For "Use & Care", "Physical Properties", and "Chemical Resistance" of plasticware and glassware, see pages 696-701.

Narrow-Mouth Bottles with Buttress Threads, LDPE

These unbreakable bottles have buttress threads to provide a leakproof seal. Buttress-threaded polypropylene (PP) cap comes with a polyethylene (PE) liner.

Discounted price/pk							
Catalog number	Volume (mL)	Cap size	Qty/pk	Price/1 pk	Save 10% 6-29 pks	Save 15% 30-119 pks	Save 20% 120+ pks
A-06020-70	500	38-430	12				
A-06020-80	1000	38-430	12				

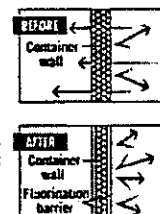
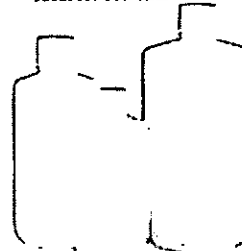


NALGENE® Fluorinated Narrow-Mouth Bottles, FLPE

Fluorination improves barrier properties and reduces solvent absorption and penetration on both inside and outside surfaces. These puncture-resistant bottles come with a leakproof fluorinated polypropylene (FLPP) screw closures.

Discounted price/pk							
Catalog number	Volume (mL)	Cap size	Qty/pk	Price/1 pk	Save 10% 6-29 pks	Save 15% 30-119 pks	Save 20% 120+ pks
A-62500-00	250	24 mm	12				
A-62500-10	500	28 mm	12				
A-62500-20	1000	38-430	6				
A-62500-30	2000	38-430	1				
A-62500-40	4000	38-430	1				

Ideal for solvents



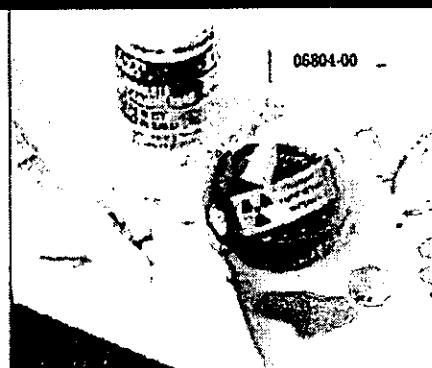
BYTAC® Surface Protectors

- Instant noncontaminating, nonstick surface

Use these surface protectors to guard benchtop and tabletop surfaces, food processing machines, walls, floors, and more. A 0.001" layer of Teflon® FEP film on a smooth, tough backing provides a noncontaminating, nonstick surface. To clean, simply wipe with a damp sponge or towel. Inert Teflon FEP surface can even be washed down with chlorine bleach.

To apply, cut the protector to size, peel the liner, then press into place. Pressure-sensitive adhesive backing sticks to almost any surface. Easily replace or reapply protector—it comes off all surfaces easily and cleanly. Select from standard or high-temperature surface protectors.

Catalog number	Backing thickness	Maximum temperature	Roll size (W x L)	Price/roll
Standard protectors with white vinyl support backing				
BH-06804-20	8 mm	200°F (93°C)	12 1/2' x 15 ft	
BH-06804-00			25' x 15 ft	
High-temperature protectors with aluminum support backing				
BH-06804-30	2 mm	360°F (182°C)	12 1/2' x 15 ft	
BH-06804-10			25' x 15 ft	



Teflon-coated BYTAC is ideal for use in kitchens and laboratories.



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Example of Tether Cap on Boston Round Bottles



EXHIBIT

15

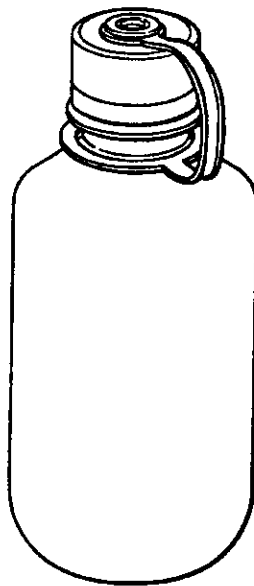
ALL-STATE LEGAL®

TriForest Ent v. Nalgene
Opposition No. 91165809
Serial No. 76/572,253

Applicant Nalge Nunc Int'l Inc Exhibit 15

DRAWING PAGE

Serial No. 76/572,253
THE CONFIGURATION OF A
PLASTIC WATER BOTTLE, SOLD
EMPTY



Denise Riemann
Apogent Technologies
30 Penhallow Street
Portsmouth, NH 03801



June 29, 2004

Dear Ms. Riemann,

I am writing this letter in response to your letter dated June 28, 2004, in reference to the stated infringement of the trademarks established by Nalgene bottles.

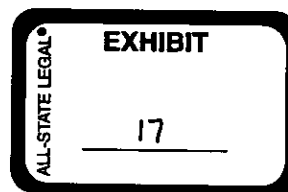
Firstly, I would like to inform you that we have no record of your previous letter, thus we have not responded to you earlier. Additionally, Stansport, our exclusive U.S. distributor for the water bottles, have been working with you and as a result we have modified our wide mouth, and our narrow mouth loop top water bottles to ensure that it does not cause any confusion in the market against other bottles. We have been informed that Stansport is in compliance with your requests.

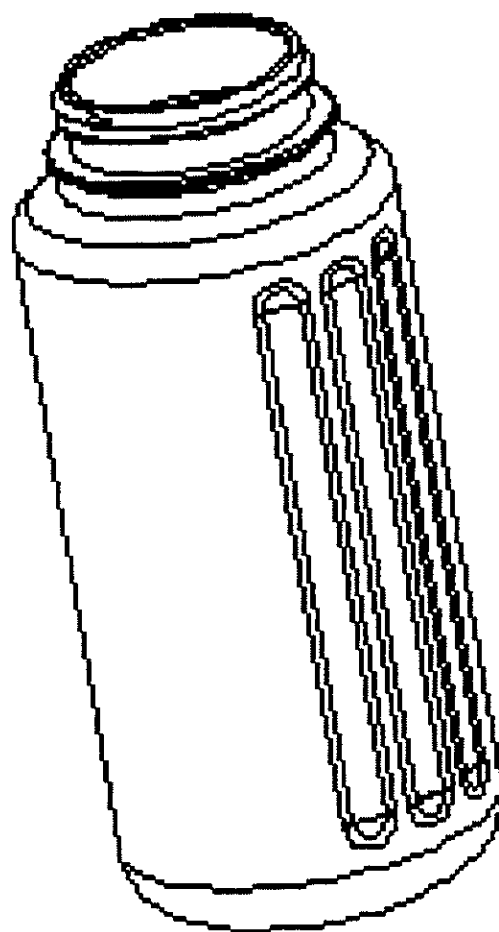
Our 3 strip-grip indented, wide mouth, loop top, Lexan, water bottle in question is not available for sale in the USA or Australia. To date, we have **not sold any** of the 3 strip-grip, wide mouth, loop top water bottle in the USA or Australia, and are not planning to do so without clearance from our legal counsel. We are presently seeking legal confirmation that the 3 strip-grip, indented, wide mouth, loop top water bottle is considerably different from your stated trade marked design and will not be a cause for confusion with your products. Refer to the enclosed illustration.

We do not want our customers to think of our products as a knock off and are working very hard to ensure that our brand name continues to convey the merits of our superior quality and craftsmanship. We do not see this as a matter requiring court intervention either, and believe there is a misunderstanding at your end. Our water bottles are in compliance with the legal boundary established by your trademark. We are in the process of updating our website that will reflect the changes soon. We hope this will resolve any misunderstandings that may have arisen.

Sincerely,

Syed Rehman
VP, Distribution and Business Affairs





**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<u>In re Application, Serial No. 76/572,253</u>)	
TriForest Enterprises, Inc.)	
)	Opposition No.: 91165809
Opposer,)	
)	
Nalge Nunc International Corporation,)	
)	
Applicant/Respondent.)	
_____)	

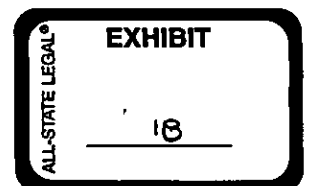
**OPPOSER, TRIFOREST ENTERPRISES, INC.'S RESPONSE TO APPLICANT'S
FIRST SET OF INTERROGATORIES**

In accordance with Rule 34 of the Federal Rules of Civil Procedure and Rules 2.116 and 2.120 of the Trademark Rules of Practice, TriForest Enterprises, Inc. ("TriForest") responds to the following interrogatories of Nalge Nunc International Corporation ("Nalge").

GENERAL STATEMENTS AND OBJECTIONS

General Statements

- A. Responding Parties reserve the right to supplement or amend these responses in the event that any facts, documents, or other evidence may subsequently be discovered.
- B. These responses are made without prejudice to Responding Parties right to introduce facts, documents, witnesses, or other evidence may be subsequently discovered.
- C. These responses are made without prejudice to Responding Parties' right to supplement or amend these responses in the event that any information previously available to Responding Parties may have been omitted by oversight, inadvertence, or good faith error or mistake.



- D. Except for the facts explicitly stated herein, no incidental or implied admissions are intended.
- E. Responding Parties expressly reserves:
 - a. All objections regarding the competency, relevance, materiality, probative value and admissibility of all information provided, documents produced and the contents thereof;
 - b. All objections as to vagueness, ambiguity, unintelligibility and overbreadth.
- F. Nothing Herein shall be construed as an admission by Responding Parties regarding the admissibility or relevance of any fact or document or of the truth or accuracy of any characterization contained in Propounding Parties' discovery requests.
- G. These responses are signed by counsel only as to the objections set forth in the responses. Responding parties specifically claims the attorney-client privilege and/or the attorney-work product privilege as to each and every response set forth herein.
- H. The fact that part or all of any discovery request has been answered should not be construed to be a waiver of any objection to any discovery request.
- I. Responding Parties responds to each and every discovery request subject to the foregoing, and each of the forgoing statements and objections is incorporated by reference into each of the following responses.

General Objections

- A. Opposer objects to these requests to the extent they seek the production of information, documents or things, which are subject to the attorney client privilege, attorney work product or other privilege or exemption from discovery.
- B. Opposer objects to these requests to the extent they seek the production of information, documents or things, which constitute or would reveal trade secrets or confidential business information belonging to Opposer.

- C. Opposers objects to these requests in so far as they seek the production of information, documents or things which are irrelevant or in material and are not reasonably calculated to lead to the discovery of admissible evidence, are not within the possession or control of Opposer, or are otherwise beyond the scope of the Federal Rule of Civil Procedure.

INTERROGATORIES

INTERROGATORY NO. 1:

Identify in detail each good with which Opposer has used, uses and intends to use Applicant's Mark or a configuration similar to Applicant's Mark, including without limitation, the configuration shown in U.S. Patent Application 10/759,659.

RESPONSE TO INTERROGATORY NO. 1:

Opposer previously sold the boston round that was claimed to be infringing. After receiving cease and desists from Apogent, opposer agreed to change the product configuration. Opposer incurred substantial cost to change the product configuration.

The opposer has no intent to use the functional features that are claimed in applicants mark, but would certainly like to because the particular features all have different utilitarian advantages. Opposer would like to avoid litigation and would only use the set of functional features if this opposition is successful.

INTERROGATORY NO. 2:

Identify the persons most knowledgeable about Opposer's sales, marketing, distribution, advertising and promotion, use and licensing of goods identified in response to Interrogatory No. 1.

RESPONSE TO INTERROGATORY NO. 2:

Steve Lin

INTERROGATORY NO. 3:

For each of the goods identified in response to Interrogatory No. 1, identify the first date, and each month thereafter, when Opposer used such goods, and produce all documents supporting such information.

RESPONSE TO INTERROGATORY NO. 3:

The Boston round has been sold as early as 2001 and in various configurations thereafter. The original product was canceled due to Apogent's threats, parent company of applicant.

INTERROGATORY NO. 4:

Identify each country, state or city, its territories and possessions, in which Opposer:

- A. is formally organized;
- B. is qualified under applicable law to do business as a foreign entity;
- C. has corporate headquarters maintained, including the exact street address and phone number of Opposer's main office; and
- D. owns, maintains or leases office or warehouse space.

RESPONSE TO INTERROGATORY NO. 4:

Opposer is a California corporation and other details are available at the Secretary of State website.

INTERROGATORY NO. 5:

Describe in detail the corporate structure of Opposer, including the identity of any and all entities related to or affiliated with Opposer.

RESPONSE TO INTERROGATORY NO. 5:

The opposer objects to this interrogatory as seeking trade secret information. Opposer objects to the interrogatory as not relevant.

INTERROGATORY NO. 6:

Identify all officers of Opposer since 2000.

RESPONSE TO INTERROGATORY NO. 6:

The opposer objects to this interrogatory as seeking trade secret information. Opposer objects to the interrogatory as not relevant. The officer would not be available in any case because the discovery cut off has terminated all right to depositions. Without waiving any of the objections, Steve Lin has been an officer since 2000.

INTERROGATORY 7:

Identify all products or devices manufactured or distributed by Opposer that Opposer believes is or will be adversely affected by the registration of Applicant's Mark.

RESPONSE TO INTERROGATORY NO. 7:

The cease and desist letters contain allegations that substantially broaden the original

Patent like claims issued by the trademark Office. Therefore, opposer is not able to figure out exactly which products it will suffer legal problems but it could be many. A simple pictorial argument is as follows:

Start with a Nalgene Boston Round Lab bottle



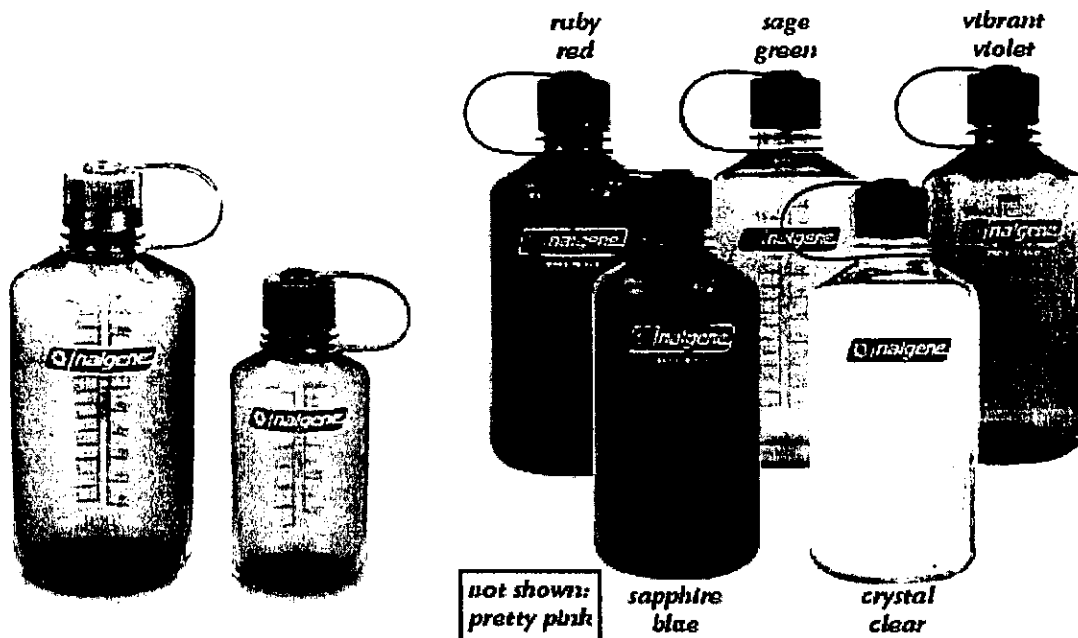
Add the tether cap



to create these Nalgene items



Now Nalgene claims to have a mark on the diverse bottles as shown:



INTERROGATORY NO. 8:

Describe in detail all past, existing and potential relationships, including, without limitation, contracts, agreements, licenses, assignments, negotiations to license or other grant of rights, or other relationships, between Opposer and any third party, relating to products bearing Applicant's Bottle Configuration or a similar configuration.

RESPONSE TO INTERROGATORY NO. 8:

Opposer objects to this interrogatory as over broad, compound and is difficult to logically answer. Opposer does not license the product and does not have a claim to applicants bottle configuration. Opposer believes that applicants bottle configuration is a public domain configuration that does not have distinctive relationship to any particular source of goods.

INTERROGATORY NO. 9:

For each product identified in response to Interrogatories Nos. 1 and 7, state the date of first sale in the United States.

RESPONSE TO INTERROGATORY NO. 9:

Because the opposer did not exist before Dec 2001, the first date of the earliest sale of any bottle would be after 2001.

INTERROGATORY NO. 10:

For each product identified in response to Interrogatories Nos. 1 and 7, list all persons

knowledgeable about the sales, accounting, distribution and promotion of such product(s).

RESPONSE TO INTERROGATORY NO. 10:

Steve Lin

INTERROGATORY NO. 11:

Set forth with specificity the circumstances and all facts regarding, relating or referring to the selection by Opposer of the configurations of the goods identified in response to Interrogatory No. 1, and identify all documents related thereto.

RESPONSE TO INTERROGATORY NO. 11:

The applicant has the current statement of the trademark in the trademark Office as: The mark consists of a plastic water bottle as shown, namely, a plastic water bottle having a transparent, generally cylindrical container body with rounded shoulders interconnecting the upper and lower extremities of a cylindrical sidewall to a relatively narrow container neck and a generally flat, circular container bottom, respectively; an opaque screw cap releasably engaged with threads on the upper portion of the neck and having a button connected to the center of its top surface via a short stem; and a strap terminating in small and large annular rings respectively encircling the button stem and the lower portion of the neck such that the large annular ring is spaced apart and visually distinct from the screw cap, wherein the ratio of the diameter of the generally cylindrical container body to the overall height of the water bottle is approximately 0.4 and the ratio of the height of the generally cylindrical container body extending between the neck and the container bottom to the overall height of the water bottle is approximately 0.8.

The opposer designed the original bottle based on a review of various Boston round designs. The opposer then created the original bottle based on efficient engineering principles. The original bottle is made of plastic because plastic is a good material to make a water bottle. Plastic is generally well accepted as a way of making a bottle. Plastic is relatively inexpensive compared to stainless steel or silver. Plastic is watertight and can seal water within a closed container. Plastic can also be formed with a closure that is threaded and watertight. Plastic is a petroleum derivative that is relatively abundant compared to metal. The opposer did not make the bottles out of wood, stone or soap because these materials are not as durable. A soap bottle would dissolve in water and a wooden bottle would split and is not well suited for holding a

liquid. During the autoclave process, the plastic is particularly well-suited for the construction of the bottle.

The opposer made bottles that were transparent so that users could look into the container and see if there are contents within the container. Transparency of the bottle also provides a user with the opportunity to determine the quantity of liquid within the bottle. Transparency also allows a user to determine if there are color changes or any other types of qualitative change within the bottle. Transparency is particularly useful during hiking because a foreign object could accidentally fall inside the bottle and a user may drink the foreign object by accident if the user could not see inside the bottle. In laboratory tests, a user may see foreign objects that have accidentally fallen inside of the bottle that may change the results of any laboratory tests. In laboratory use, the bottle often has a media inside that is supposed to be sterile. Having a transparent surface allows a laboratory worker to look inside of the bottle to see if there is anything foreign, such as an insect like a mosquito, fly, mayfly or cockroach. The transparency of the bottle is also helpful for a user because the user can see if the bottle is clean. If the bottle is dirty, the user may want to clean the bottle. If the user wants a dirty bottle, having a transparent surface would insure that there is debris in the bottle. Overall, transparent bottles have been in use since early glass bottles. Early glass bottles are ancient.

The bottle is generally cylindrical with rounded shoulders because some machines roll the bottle. Also, the bottle been generally cylindrical with rounded shoulders allows a greater volume to surface area ratio. This is helpful when optimizing construction so that the plastic use is minimized and the strength of the bottle is maximized. The rounded shoulders interconnect with the upper and lower extremities of the cylindrical sidewalls because if they were not connected, the bottle would fall apart and the contents will leak out. It is better that the bottles are made of integrally formed or blown pieces, rather than pieced together from a number of independent interlocking pieces.

The relatively narrow container neck is commonly known as a narrow mouth bottle. The narrow mouth bottle is good because it is easier to pour of the contents or to drink from the bottle. If the

mouth is too large, it is easier to spill all over the place. The narrow mouth bottle is a very good configuration. There are a wide number of narrow mouth bottles such as milk bottles. Milk is put into bottles that have a narrow mouth because this makes it easier to pour the milk. Orange juice is also put into bottles that have a narrow mouth because it is easier to pour the orange juice. A variety of liquids can be put into a narrow mouth bottle allowing easier pouring of the contents. This applies to granular media such as sand, or coffee grounds as well. When a person purchases a can of coffee at the store that is in the 5 lb. canned version, the person needs to use the scoop that that can comes with because it is hard to pour out of a can that has a large diameter. The contents will pour out of the middle portion of the mouth, but also out of the sides of the mouth. The stream of contents is proportional to the radius of the bottle opening.

The bottle has a generally flat container bottom that is circular because the bottle is in the shape of a cylinder. The circular bottom is formed by the bisecting plane between the cylinder and a plane. The flat bottom is very helpful. If the bottom is not flat, the bottle has a tendency to tip over. The bottle should not tip over. If the bottle tips over the contents will pour out. Having a flat bottom is the best way to keep the bottle from tipping over. Alternative methods such as using adhesive resin to bond the bottle to a table is not as good because the bottle would become stuck and difficult to remove from a table. The bottle could also be made to have a circular depression such that the bottom of the bottle forms a rim. This is helpful for strength of the bottle. If the bottle has a small circular depression or a broad one, the best way to make the bottle is with a flat bottom.

The screw cap is opaque and engaged with threads on the upper portion of the neck because transparent material is more expensive and difficult to work with on a screw cap. The screw cap should be softer and thus opaque materials are better at forming the screw cap. It would be more expensive to make transparent screw caps because the plastic is more expensive. If a user can see through the wall of the bottle, it is not that big of a deal that the user cannot see through the screw cap. The screw cap engages with threads because it is easier to screw on a bottle cap rather than snap it on. The snap on version is too easily snapped off. The screw configuration is a better way to seal the bottle with certainty.

The screw cap has a button connected to the center of its top surface via a short stem because the screw cap is tethered to the bottle. The tether rotates about the button that serves as an axis of rotation to retain the tether to the cap. Once the user takes off the cap, the tether is very helpful because otherwise the cap would be lost or roll away. The connection is formed as a button because the button configuration provides a good axial connection while maintaining low weight and cost. The button is essentially a rivet that turns. If the tether were directly formed to the screw cap, the screw cap would stop turning because the tether would bias the screw cap by exerting a clockwise force. Therefore, an axial connection is preferred. The tether connection to the shrink ring was the easiest connection. Other alternatives such as Sonic welding would require additional machinery and production process. The tether connection to the shrink ring provides a manual solution for connection.

The strap terminates in small and large annular rings respectively encircling the button stem and the lower portion of the neck such that the large annular ring is spaced apart and visually distinct from the screw cap, because the small ring is necessary for rotation with the cap, and the large ring is necessary for connection with the shrink ring. The button stem is preferably encircled because that provides a pivotal connection. The strap is visually distinct from the screw cap because they are separate parts. They are separate parts because the screw cap needs to rotate around the mouth of the bottle while the strap remains stationary. If the strap rotates with the screw cap, the strap will interfere with the hand of the user especially if the user is removing or putting the cap on using a single hand. The top ring is smaller because it does not need to be very large for the connection with the cap. Though bottom ring is larger because it must fit around the shrink ring near the base of the bottle. If the top ring were larger than the bottom, the ring would protrude over the top surface of the cap and hinder the fingers of the user. The top ring should be smaller than the top of the top surface of the cap because the fingers of the user preferably grasp the interface between the top surface of the cap and the side surfaces of the cap. The top ring being in the same size as the top surface of the cap would limit the user to grasping only the side surfaces of the cap. This limitation would prevent a user from tightening the cap as much as a user could have if the user had access to grab more surface area on the cap.

$$2\pi r = 3.25$$

The ratio of the diameter of the generally cylindrical container body to the overall height of the water bottle is approximately .4 because in a 500ml cylindrical container, that ratio produces a circumference that is approximately equivalent to the size of an average person's hand. The .4 ratio is particularly comfortable and easy to hold. If the container were overly long, it would require additional plastic to create and would not be as strong. The overlong container would also not be as strong because is more of a stick shaped container. The 500ml cylindrical container is a standard size. It is half a liter. A liter is a metric size. Metric units are widely adopted in the world. A metric units are particularly helpful in science because all of the unit's are based 10. Dealing with inches and feet, and gallons makes calculations difficult. Therefore, the standard size half liter container is particularly well-suited for a person's hand when .4 ratio is in place.

The ratio of the height of the generally cylindrical container body extending between the neck and the container bottom to the overall height of the water bottle is approximately 0.8 because with the .4 ratio previously mentioned, the cap would be on the order of several inches in height. Having a cap that produces a .7 ratio would make the cap size overly long and create a long neck that is taller than it is wide. Having a cap that produces a .9 ratio would make the gripping area too small for an average person's fingers. Therefore, the .8 ratio is derived from the .4 ratio which is derived from the combination of the standard size 500ml container in combination with an average person's hand size.

The container is designed to hold water because it is a bottle. Water is the most plentiful liquid on the planet. A wide variety of liquids can be stored within the container. If the container were not designed to hold water, it would not work as well as a container that could hold water. Humans drink water during exercise and on a daily basis. Humans are comprised of a substantial percentage of water weight. Therefore, the opposer designed the bottle to hold water because holding water is a convenient and utilitarian function of a bottle.

INTERROGATORY NO. 12:

Identify all other configurations Opposer considered as alternatives to a water bottle

having Applicant's Bottle Configuration or a similar configuration, and produce all documents related thereto, including, but not limited to, photographs and drawings of such alternative configurations.

RESPONSE TO INTERROGATORY NO. 12:

For the above reasons previously stated, the opposer adopted a bottle that happened to be described in the description of the mark. The opposer adopted the bottle design described in the description of the mark because the description of the mark describes a typical narrow mouth bottle that has a tether.

INTERROGATORY NO. 13:

Identify all persons who were involved in the selection, design, development, adoption and use of a water bottle configuration having Applicant's Bottle Configuration, or a similar configuration, and for each person, state his/her title, and the role s/he played to select, design, develop, adopt and use such.

RESPONSE TO INTERROGATORY NO. 13:

The opposer does not have sufficient knowledge to answer this interrogatory other than to say that Owens Illinois made the first Boston Round configuration. Regarding the design, development, adoption and use of the standard water bottle configuration, these should be available on the United States Patent Office website or in other public domain databases.

INTERROGATORY NO. 14:

For each product identified in response to Interrogatories Nos. 1 and 7, explain in detail the reasons for selecting such product configuration.

RESPONSE TO INTERROGATORY NO. 14:

Please see answer to the interrogatory 11.

INTERROGATORY NO. 15:

For each alternative configuration identified in response to Interrogatory No. 12, explain in detail why such design was not selected.

RESPONSE TO INTERROGATORY NO. 15:

Please see answer to the interrogatory 11.

INTERROGATORY NO. 16:

Describe in detail all circumstances when Opposer has marketed, advertised, or promoted

a water bottle bearing Applicant's Bottle Configuration or a similar configuration, including the dates and media channels or such marketing, advertising or promotion, and identify all documents related thereto.

RESPONSE TO INTERROGATORY NO. 16:

The opposer sold the goods to the vendors that received the cease and desist letters from Apogent. Thereafter, the opposer's business in selling the goods was substantially harmed.

INTERROGATORY NO. 17:

When did Opposer first become aware of (1) Applicant, (2) Applicant's Mark and (3) the application of Applicant's Mark, namely, U.S. Application Serial No. 76/572,253.

RESPONSE TO INTERROGATORY NO. 17:

Opposer is not exactly sure of the dates, but knows that the notice of all these came from Apogent's cease and desist letters beginning in about September 2004.

INTERROGATORY NO. 18:

For each product identified in response to Interrogatory No. 7 state (1) the country(s) in which the product is manufactured and (2) the costs of manufacturing such product.

RESPONSE TO INTERROGATORY NO. 18:

Because the products are difficult to define, this interrogatory cannot be answered. The idea behind a patent claim is that there is certainty in the limitations and patent claims are subject to the all limitations rule. A patent owner cannot remove limitations and elements from the patent claim, but Apogent (parent company of Nalgene) has sent cease and desist letters removing many elements and limitations from the 'patent claim' that was granted by the trademark Office. Therefore, the scope of the trademarks is now impossible to define. This is of course Apogent's strategy because the difficulty in defining limitations on the claims is an excellent way to deter competition.

INTERROGATORY NO. 19:

Identify all inquiries, investigations, surveys, evaluations and/or studies, legal or otherwise, conducted by Opposer or by anyone acting for or on its behalf with respect to use of a configuration similar to Applicant's Mark, including the date conducted, the name, address and title of each person who conducted it, the purpose of being conducted, the findings or conclusions made, and identify all documents related thereto.

RESPONSE TO INTERROGATORY NO. 19:

This interrogatory is objected to on the basis of seeking attorney work product that is attorney work product privileged. To the extent that discoverable evidence is not an attorney work product privileged, it is described below. Fisher Scientific owns Apogent that owns Nalgene. Fisher Scientific also owns Cole-Parmer.

1. The following sites have been used for searches on the Boston Round configuration indicating that Applicant's Mark is simply a connected cap on their existing (advertised) bottle listed as Boston Round.

- a. www.fishersci.com (Applicant's parent company)

- i. <https://www1.fishersci.com/Search;jsessionid=DtIVY6X66GHzkJN6LwuZvEf1Soi5i2JYnY5JAfTluOTX5xrDO692!917591203?t=r&key=boston+round>

- ii.

Nalgene* Polypropylene Boston Round Bottles
Excellent chemical resistance

Fisher Catalog > Bottles > Plastic Bottles [General Purpose] > Round Plastic Narrow Mouth Bottles > Nalgene* Polypropylene Boston Round Bottles

With polypropylene screw closures. Ideal for lab applications requiring excellent autoclaving of containers with or without contents.
Note: Completely disengage threads or remove closure before autoclaving. Leakproof.



02-925 and 02-923-11
Series

- b. www.vwrsp.com

- i. <http://www.vwrsp.com/psearch/ControllerServlet.do?D=boston+round&CurSel=Ntt&Ntt=boston+round&Ntk=All&Ntx=mode%2bmatchpartialmax&Np=2&N=0&Nu=RollupKey&cntry=us&Nty=1&custpartgrp=null>

- c. http://www.coleparmer.com/opproducts/nalgene_bottles.html

Nalgene Bottles

Whether your laboratory storage needs include pharmaceutical, chemical, or other commercial applications, Cole-Parmer offers a wide selection of Nalgene® bottles. Choose from narrow-mouth, wide-mouth, wash, solution and other use bottles. Nalgene® bottles are available in various sizes and specifications including polypropylene and polyethylene. Check out our catalog's selections and you'll find the Nalgene® bottles with the features you need, like some of the features of the Model EW-06035-70 (pictured) listed below.

Nalgene Bottles Quick Link

Model EW-06035-70 — Nalgene® Narrow-Mouth High-Density Polyethylene (HDPE). All-purpose Boston round Nalgene® bottles are popularly used for packaging, shipping, and storage because of their reliable durability. Rigid, translucent, and chemical-resistant, Nalgene® bottles can be used with most corrosives. All have leakproof polypropylene (PP) screw closures.

d. <https://www1.fishersci.com/Coupon?cid=1328&gid=43890>



e.

**The Polycarbonate Boston Round Bottle with identical measurements, shape and profile being sold by the applicant's parent company without a tethered cap. Just as the opposer is selling a Boston Round Bottle is sold in the lab market with a tethered cap filled with reagents and culture media.*

Characteristics	Cat. No.	Qty.	Price
Add To Shopping Cart ➔			

Screw Cap Size: 38mm-430; NNI
No.: 2205 0016; Capacity: 16 oz.

02-960-52E
NNI No.:2205-0016



- Ⓒ Pack of 4 for \$37.64
- Ⓒ Case of 6 for \$150.56

Add To Shopping Cart ➡

Screw Cap Size: 38mm-430; NNI
No.: 2205 0032; Capacity: 1/4gal.

02-960-52F
NNI No.:2205-0032



- Ⓒ Pack of 4 for \$52.64
- Ⓒ Case of 6 for \$210.54

Add To Shopping Cart ➡

f. www.nalgenepackaging.com

- i. http://www.nalgenepackaging.com/products/productDetail.asp?product_id=632&subcategory_id=&category_id=123&brand_name=NALGENE+Packaging&category_name=Lab+Quality+Bottles&subcategory_name=

g. <http://www.nalgene-outdoor.com/store/category.asp?category=Narrow-Mouth+Bottles>

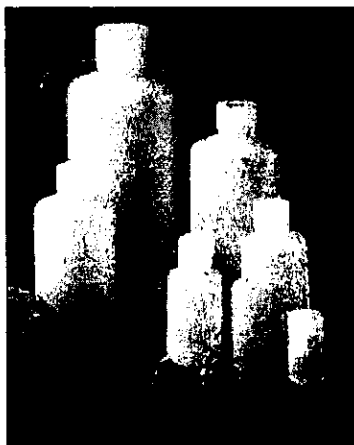
h. <http://store.karstsports.com/nalnarmoutlo.html>

- i. Sports Market Distributor selling the same bottle with a tether cap and with screw cap without tether, being called narrow mouth bottle.

i. <http://www.rei.com/product/484.htm>

- i. Nalgene Narrow-Mouth Polyethylene Bottle - 16 oz.
\$4.25 Item 402188

Same bottle called Boston Round made with HDPE, LDPE.



INTERROGATORY NO. 20:

For each good sold by Opposer bearing Applicant's Mark or a similar configuration,

identify the target consumers or ordinary purchasers, including their sophistication, the level of care exercised by such customers or purchaser in purchasing such goods or services.

RESPONSE TO INTERROGATORY NO. 20:

Because the products are difficult to define, this interrogatory cannot be answered. The idea behind a patent claim is that there is certainty in the limitations and patent claims are subject to the all limitations rule. A patent owner cannot remove limitations and elements from the patent claim, but Apogent (parent company of Nalgene) has sent cease and desist letters removing many elements and limitations from the 'patent claim' that was granted by the trademark Office. Therefore, the scope of the trademarks is now impossible to define. This is of course Apogent's strategy because the difficulty in defining limitations on the claims is an excellent way to deter competition.

INTERROGATORY NO. 21:

For each good Opposer sells and promotes, or intends to sell and promote, in connection with a water bottle bearing Applicant's Bottle Configuration or a similar configuration, identify with specificity the price range, at the wholesale and/or retail level, at which Opposer sells or intends to sell such goods, and identify all documents related thereto.

RESPONSE TO INTERROGATORY NO. 21:

Because the products are difficult to define, this interrogatory cannot be answered. The idea behind a patent claim is that there is certainty in the limitations and patent claims are subject to the all limitations rule. A patent owner cannot remove limitations and elements from the patent claim, but Apogent (parent company of Nalgene) has sent cease and desist letters removing many elements and limitations from the 'patent claim' that was granted by the trademark Office. Therefore, the scope of the trademarks is now impossible to define. This is of course Apogent's strategy because the difficulty in defining limitations on the claims is an excellent way to deter competition.

INTERROGATORY NO. 22:

For each good identified in response to Interrogatories Nos. 1 and 7, set forth the dollar amount of the gross quarterly sales of such goods, if any, and the dollar amount of quarterly advertising expenditures.

RESPONSE TO INTERROGATORY NO. 22:

Because the products are difficult to define, this interrogatory cannot be answered. The idea behind a patent claim is that there is certainty in the limitations and patent claims are subject to the all limitations rule. A patent owner cannot remove limitations and elements from the patent claim, but Apogent (parent company of Nalgene) has sent cease and desist letters removing many elements and limitations from the 'patent claim' that was granted by the trademark Office. Therefore, the scope of the trademarks is now impossible to define. This is of course Apogent's strategy because the difficulty in defining limitations on the claims is an excellent way to deter competition. Without waiving the objection that this interrogatory is vague the, opposer answers that the amount is insubstantial compared to the amount of sales of the applicant. The amount is insubstantial because of the unfair claiming of Patent features as trade dress features, and the related threats of litigation.

INTERROGATORY NO. 23:

Identify the date when a water bottle bearing Applicant's Bottle Configuration or a similar configuration was last sold by or on behalf of Opposer and provide all supporting documents thereto.

RESPONSE TO INTERROGATORY NO. 23:

The opposer objects to this interrogatory as being vague. Because the products are difficult to define, this interrogatory cannot be answered. The idea behind a patent claim is that there is certainty in the limitations and patent claims are subject to the all limitations rule. A patent owner cannot remove limitations and elements from the patent claim, but Apogent (parent company of Nalgene) has sent cease and desist letters removing many elements and limitations from the 'patent claim' that was granted by the trademark Office. Therefore, the scope of the trademarks is now impossible to define. This is of course Apogent's strategy because the difficulty in defining limitations on the claims is an excellent way to deter competition.

INTERROGATORY NO. 24:

Identify each statement or opinion, oral or written, obtained by or for Opposer regarding any issue in this Opposition proceeding, and identify all documents which record, refer to, or relate to such statement or opinion.

RESPONSE TO INTERROGATORY NO. 24:

This interrogatory is objected to as being over broad and vague.

INTERROGATORY NO. 25:

Identify all water bottle configurations used by third parties, registered or common law, for goods related to those goods listed in response to Interrogatory No. 1. Explain when Opposer first became aware of these configurations, what action Opposer has taken with respect to each of these trademarks, and the outcome of such action.

RESPONSE TO INTERROGATORY NO. 25:

The opposer has not compiled a comprehensive list of water bottle configurations used by third parties. The opposer reserves the right to supplement this interrogatory. So far, there are only the configurations in the production of documents and in the opposition.

INTERROGATORY NO. 26:

State in detail the channels of trade through which Opposer uses and markets, or intends to use and market a water bottle bearing Applicant's Bottle Configuration or a similar configuration, including the geographic area by state, the manner in which the goods reach the ultimate consumer, the specific names of retail store establishments, the approximate percentage of goods sold through each channel, and total sales, if any, of goods through each channel.

RESPONSE TO INTERROGATORY NO. 26:

Opposer plans to market in general retail and wholesale in the sports, general goods and laboratory markets.

INTERROGATORY NO. 27:

Identify with specificity the media and marketing methods used by or on behalf of Opposer in the promotion and sale of goods bearing Applicant's Bottle Configuration or a similar configuration without limitation, the names of newspapers, magazines, or periodicals.

RESPONSE TO INTERROGATORY NO. 27:

The opposer objects to this interrogatory as being vague. Because the products are difficult to define, this interrogatory cannot be answered. The idea behind a patent claim is that there is certainty in the limitations and patent claims are subject to the all limitations rule. A patent owner cannot remove limitations and elements from the patent claim, but Apogent (parent company of Nalgene) has sent cease and desist letters removing many elements and limitations from the 'patent claim' that was granted by the trademark Office. Therefore, the scope of the trademarks is now impossible to define.

INTERROGATORY NO. 28:

Identify all persons or entities, other than Applicant, and set forth with specificity all facts with whom Opposer has had contact regarding, relating or referring to Applicant's Mark, and identify all supporting documents related thereto.

RESPONSE TO INTERROGATORY NO. 28:

The opposer objects to this interrogatory as being vague and overbroad. Because the products are difficult to define, this interrogatory cannot be answered. The idea behind a patent claim is that there is certainty in the limitations and patent claims are subject to the all limitations rule. A patent owner cannot remove limitations and elements from the patent claim, but Apogent (parent company of Nalgene) has sent cease and desist letters removing many elements and limitations from the 'patent claim' that was granted by the trademark Office. Therefore, the scope of the trademarks is now impossible to define.

INTERROGATORY NO. 29:

Identify all plastic water bottles produced, manufactured or distributed by Owens-Illinois and Brockaway Glass.

RESPONSE TO INTERROGATORY NO. 29:

The opposer does not know all of the production of these companies. It is believed that these companies produce a wide variety of products.

INTERROGATORY NO. 30:

Describe, define or otherwise explain in detail the meaning of "standard sizes in the marketplace," "standard laboratory machines," and "related bottle holders" as used in the Notice of Opposition.

RESPONSE TO INTERROGATORY NO. 30:

The standard sizes in the marketplace refer to industry standards. Industry standards are common sizes or shapes that are adopted by a wide variety of companies in a particular field. For example, water bottles are typically sold in 500ml containers. Standard laboratory machines refers to machines that are configured and designed to accept a particular size or shape of container. For example, some laboratory machines roll the bottle for mixing. Square bottles do not roll very well. Therefore the standard in this case would be that the bottle is cylindrical. Related bottle holders refers to standard sized holders for the bottles. Because bottles are

standard sized, the bottle holders would be adapted to receive the standard sized bottles. The standard size is a result of various companies in the bottle industry making bottles that are of similar shape and size and dimensions. Because the various companies in the bottle making industry make bottles that are similar, laboratory machines will also make machines that receive those bottles.

INTERROGATORY NO. 31:

Describe in detail the cost of manufacturing the goods identified in response to Interrogatories No. 1 and No. 7.

RESPONSE TO INTERROGATORY NO. 31:

The opposer objects to this interrogatory as seeking confidential trade secrets, as irrelevant and as not calculated to lead to discoverable evidence.

INTERROGATORY NO. 32:

Explain in detail why Opposer filed a patent application for a water bottle having features similar to Applicant's Mark.

RESPONSE TO INTERROGATORY NO. 32:

Like the applicant, Opposer wanted to be able to sue people for making standard products. Unfortunately, opposer was thwarted by the patent office because of novelty issues.

INTERROGATORY NO. 33:

Identify each witness that Petitioner expects to testify, the subject matter to which the witness is expected to testify, each fact and/or opinion to which the witness is expected to give, the bases for each statement or opinion and identify all documents related thereto.

RESPONSE TO INTERROGATORY NO. 33:

The opposer has not figured out the witnesses yet. Witnesses may not be necessary if the opposer wins without trial. The opposer reserves the right to supplement this interrogatory.

INTERROGATORY NO. 34:

Identify each person who participated in or supplied information used in answering any of the above interrogatories; beside the name of each such person, state the number of the interrogatory answer(s) that person answered or supplied information.

RESPONSE TO INTERROGATORY NO. 34:

Steve Lin

INTERROGATORY NO. 35:

Identify all facts and documents supporting contention that in the Notice of Opposition that “[t]he 76572253 mark is functional and does not have secondary meaning.”

RESPONSE TO INTERROGATORY NO. 35:

The answer to this interrogatory is in interrogatory response 11.

INTERROGATORY NO. 36:

Identify all facts and documents that Opposer claims show that the exclusive use by Applicant of Applicant’s Mark would put competitors at a significant non-reputation-related disadvantage.

RESPONSE TO INTERROGATORY NO. 36:

The opposer objects to this interrogatory as being vague and overbroad. Applicant will have a perpetual patent claim that grows with time and has no certainty in the limitations and is not subject to the all limitations rule. A patent owner cannot remove limitations and elements from the patent claim, but Apogent (parent company of Nalgene) has sent cease and desist letters removing many elements and limitations from the 'patent claim' that was granted by the trademark Office. Therefore, the scope of the trademarks is now impossible to define. The functional advantages of the product are previously described in interrogatory response 11.

INTERROGATORY NO. 37:

Identify all facts and documents Opposer claims show that there are no alternative designs available that are functionally equivalent to the design of Applicant’s Mark.

RESPONSE TO INTERROGATORY NO. 37:

The patent like claim given to applicant will, from time to time, shed limitations and elements from the claim, until applicant has a monopoly on all water bottles. Apogent’s cease and desist letters remove many elements and limitations from the patent like claim that was granted by the Trademark Office.

This pattern of unfair competition and misuse of trademark registration provides an unfair advantage to large corporations. As a small start up company involved in selling plastic consumables we are concerned with the unfair and the monopolistic trade practices of the giant corporations.

INTERROGATORY NO. 38:

Identify all facts and documents Opposer claims show the design of Applicant's Mark provides for a simpler or cheaper method of manufacture than alternative designs.

RESPONSE TO INTERROGATORY NO. 38:

The functional advantages of the product are previously described in interrogatory response 11.

INTERROGATORY NO. 39:

Identify all facts and documents supporting Opposer's contention in the Notice of Opposition that:

- A. "If the 76572253 mark is allowed to be registered, the applicant Nalgene would have a monopoly on the traditional Boston Round."
- B. "The applicant [sic, Opposer] also sells this type of bottle and would be injured if the application were registered."
- C. "The button is necessary to connect the tether in swivel configuration to the cap."
- D. "Opposer has filed a utility patent application for the connector 'tether' and opposer's bottle is also sold to the same customers."
- E. "The round profile contributes substantially to the strength of the bottle."
- F. "The upper annular ring is configured to allow a shrinkwrap machine shrinkwrap the top of the cap to the bottle."
- G. "The overall height of the water bottle and . . . are established by standard sizes in the marketplace. The ratios are commercially necessary so that the bottles will fit into standard laboratory machines, packaging machines, and related bottle holders."

RESPONSE TO INTERROGATORY NO. 39:

The functional advantages of the product are previously described in interrogatory response 11. This interrogatory has been answered by the above responses to interrogatory 1-38. The opposer incorporates by reference the responses to interrogatory 1-38.

<u>2/28/06</u> Date (714) 825-0555; (714) 825-0558 fax	<u>Clement Cheng</u> Clement Cheng, attorney for applicant Newhope Law, PC 17220 Newhope St Ste 127 Fountain Valley, CA 92708-4283
--	--

VERIFICATION

I am an officer of TriForest Enterprises, Inc., the opposer in this action and am authorized to make this verification on its behalf. I have read and reviewed the above **OPPOSER, TRIFOREST ENTERPRISES, INC.'S RESPONSE TO APPLICANT'S FIRST SET OF INTERROGATORIES** and know the contents. The same is true of my own knowledge, except as to those matters that are alleged on information and belief, as to those matters, I believe it to be true.

I declare under penalty of perjury according to this the laws of the State of California that the above is true and correct.

Executed on May 29, 2006 (date) in the city of Irvine, California

X: 

signature

PROOF OF SERVICE

In the matter of App Ser. No. 76/572,253

I, the undersigned, declare I am over the age of 18 and not a party to this action. My business address is at 17220 Newhope St., Suite 127 Fountain Valley, CA 92708.

On February 28, 2006, I served:

**OPPOSER, TRIFOREST ENTERPRISES, INC.'S RESPONSE TO APPLICANT'S
FIRST SET OF INTERROGATORIES**

By placing true copies thereof in a seal envelope, addressed as follows to:

Donald L. Frei

Sarah Otte Graber

WOOD, HERRON & EVANS, LLP

2700 Carew Tower

441 Vine Street

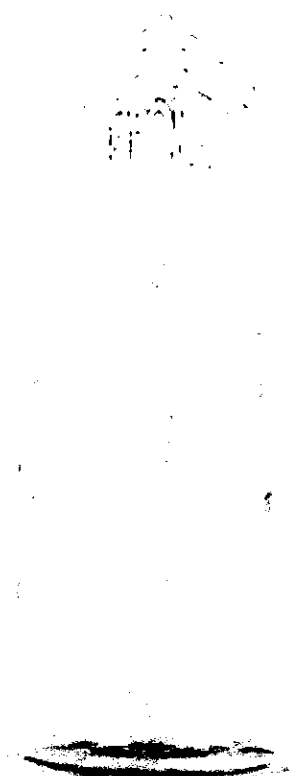
Cincinnati, OH 45202-2917

(513) 241-2324

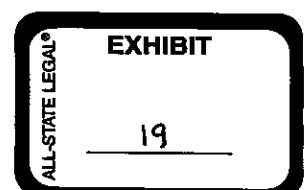
Attorney's for Applicant Nalge Nunc International Corporation

- ☒ BY MAIL: I am readily familiar with the practice of the office for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice, correspondence is put in the office outgoing mail tray for collection and is deposited in the U.S. Mail that same day in the ordinary course of business. I am aware that, on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one (1) day after the date of deposit for mailing shown on this proof of service.
- ☒ FEDERAL: I declare under penalty of perjury under the laws of the United States that the foregoing is true and that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on February 28, 2006 at Fountain Valley, California.



TriForest Ent v. Nalgene
Opposition No. 91165809
Serial No. 76/572,253
Applicant Nalge Nunc Int'l Inc Exhibit 19





Introducing TriForest Crystal Cut Bottles

Available in 4 colors in the 750 ml size with limited edition silver cap and screen print. Click on the pictures below to see the enlarged version.

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[Lexan Outdoor Bottles](#)

[Accessories](#)

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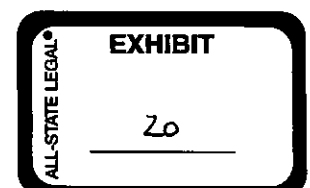
[Lab Bottles](#)

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TriForest Ent v. Nalgene
Opposition No. 91165809
Serial No. 76/572,253
Applicant Nalge Nunc Int'l Inc Exhibit 20



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<u>In re Application, Serial No. 76/572,253</u>)	
TriForest Enterprises, Inc.)	
)	Opposition No.: 91165809
Opposer,)	
)	
Nalge Nunc International Corporation,)	
)	
Applicant/Respondent.)	
_____)	

**OPPOSER, TRIFOREST ENTERPRISES, INC.'S RESPONSE TO APPLICANT'S
FIRST SET OF REQUESTS FOR ADMISSIONS**

REQUEST FOR ADMISSION NO. 1:

Admit that Applicant's Mark is different in appearance from bottles Opposer considers to be "Boston Rounds."

RESPONSE TO REQUEST FOR ADMISSION NO. 1:

Denied, in the sense that both of them look like a Boston Round bottle. Opposer sells bottles called "Boston Rounds" in the laboratory market. The Applicant's website lists a bottle also called "Boston Round," which is identically shaped like Opposer's Boston Round bottle and shares similar features. Applicant's Boston Round is similar to Opposer's because it fits the same closure, has a tethered cap that can be interchanged and shares the same dimensions.

REQUEST FOR ADMISSION NO. 2:

Admit that Opposer may produce and sell drinking water bottles having a different shape from Applicant's Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 2:



Admitted. Opposer sells various general purpose bottles not limited to drinking water or laboratory use, however, due to the increase in the number of trade dress claims, and cease and desist letters received from Apogent, the scope of the trademark is broadened after registration such that applicant later claims infringement against wide variety of opposers products. Based on previous correspondence, it appears that Apogent (parent company of Nalgene) has an expansive view of the trademark scope. Furthermore, the scope of the trademark claims seems to grow over time so this admission relates only to the present time.

REQUEST FOR ADMISSION NO. 3:

Admit Opposer has sold, produced and distributed drinking water bottles that have a different shape from Applicant's Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 3:

Admitted. However, Applicant's numerous trade dress claims are overbroad such that they encompass all of opposer's products. Opposer sells various bottles for a general purpose, not limited to drinking water or laboratory use however, opposer's distributors have received cease and desist letters when only a small number of factors match the numerous list of trade dress elements.

REQUEST FOR ADMISSION NO. 4:

Admit that the goods referred to in Admission No. 3 had a cap, a tether and a mouth.

RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Admitted. All of Opposer's bottles have a cap and a mouth. Some of Opposer's bottles have a connector (tether) to provide convenience and prevention of loss of the cap. The bottles in reference all have a closure of 38/430, which is a generally popular neck size in laboratories. The bottles come with a choice of a tethered cap, filtered cap, a rubber septum cap or a sealed non tethered cap. Opposer's bottles that have a tethered cap serve a utility function and are essential for use in a sterile environment. If the Applicant were to succeed in registering its trademark, any person or company who manufactures a Boston Round bottle with a closure measuring 38/430 would infringe on a trademark.

REQUEST FOR ADMISSION NO. 5:

Admit that Opposer will not be harmed by the registration of Applicant's Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 5:

Denied. The Opposer will be harmed financially and commercially by the registration of the Applicant's mark because the Opposer has been manufacturing and selling Boston Round bottles for a long time in the industry. Registration of Applicant's Mark would cause Opposer to infringe on a trademark each time it manufactured a Boston Round bottle with a closure measuring 38/430. Opposer and distributors will receive cease and desist letters that will harm opposer even if opposer is not sued when the trademark issues.

REQUEST FOR ADMISSION NO. 6:

Admit that Opposer filed a patent application directed to a connector tether after it became aware of Applicant's Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 6:

The Opposer denies that it filed a patent application for a connector tether featured on the Boston Round bottle design after it became aware of the Applicant's Mark. Looking at the filing dates, this does not seem to be possible. Prior to the Applicant's application for trademark registration, the Opposer filed a utility and patent application for the connection tether based on its use in the culture media market. The Applicant filed a trademark application after it became aware of the Opposer's patent application.

REQUEST FOR ADMISSION NO. 7:

Admit Opposer purposely filed its patent application in preparation for the current Opposition proceeding.

RESPONSE TO REQUEST FOR ADMISSION NO. 7:

Denied. The Opposer filed a utility and patent application for its connector tether to protect its intellectual property rights to an innovative and convenient cap feature on Boston Round bottles, which it sold in the culture media market.

REQUEST FOR ADMISSION NO. 8:

Referring to the bottles shown on Exhibit 1 attached to the Notice of Opposition, admit that Applicant's Mark is different in appearance from:

- a. Product #5180, On the Trail Square Polycarbonate bottle;
- b. Product #5190, The Journeyer Polycarbonate bottle;
- c. Product #5196, The Outfitter Polycarbonate bottle;
- d. Product #4663, the Flavor Fresh Polycarbonate bottle;

- e. Product #5081, the Rx Collapsible water bottle.

RESPONSE TO REQUEST FOR ADMISSION NO. 8:

There is some difference in appearance, but that is a matter of degree that can be debated. However, once the trademark issues, the opposer and its distributors will begin receiving cease and desist letters from Apogent (parent company of Nalgene) claiming trademark infringement. This will cut into sales and hurt the opposer, which is why the opposer is filing this opposition.

REQUEST FOR ADMISSION NO. 9:

Admit that the bottles Opposer considers to be "Boston Rounds" are for laboratory use only.

RESPONSE TO REQUEST FOR ADMISSION NO. 9:

Denied. Opposer and others sell versions of Boston Round bottles in various markets, and does not limit its sales for laboratory use only.

REQUEST FOR ADMISSION NO. 10:

Admit that the bottles Opposer considers to be "Boston Rounds" are not used as drinking water bottles.

RESPONSE TO REQUEST FOR ADMISSION NO. 10:

Denied. Opposer and others sell Boston Round bottle variations for all customer applications, and does not limit the use of these bottles as drinking water bottles.

RESPONSE TO REQUEST FOR ADMISSION NO. 11:

Admit that the Owens-Illinois website referenced in the Notice of Opposition does not refer to any plastic drinking water bottles.

RESPONSE TO REQUEST FOR ADMISSION NO. 11:

Not sure, applicant and opposer will have to check on this. It appears that the bottles are made of plastic, however they could very well be made of glass also.

REQUEST FOR ADMISSION NO. 12:

Admit that Owens-Illinois does not manufacture and/or provide plastic drinking water bottles.

RESPONSE TO REQUEST FOR ADMISSION NO. 12:

Not sure, Opposer does not have sufficient knowledge or information to know the purpose for which Owens-Illinois Boston Round bottles are used.

REQUEST FOR ADMISSION NO. 13:

Admit that the Brockaway Glass website referenced in the Notice of Opposition does not refer to any plastic drinking water bottles.

RESPONSE TO REQUEST FOR ADMISSION NO. 13:

Not sure, Opposer does not have sufficient knowledge or information re: the Brockaway Glass company product.

REQUEST FOR ADMISSION NO. 14:

Admit that Brockaway Glass does not manufacture and/or provide plastic drinking water bottles.

RESPONSE TO REQUEST FOR ADMISSION NO. 14:

Not sure, Opposer does not have sufficient knowledge or information to know the purpose for which Brockaway Glass Boston Round bottles are used. However the plastic water bottles appeared to be not for drinking. Obviously, someone can drink from the water bottle however the opposer will investigate this matter.

REQUEST FOR ADMISSION NO. 15:

Admit that the "utility patent" referred to in Paragraph 15 in the Notice of Opposition, as re-numbered by Applicant, refers to Utility Patent Application Serial No. 10/759,659.

RESPONSE TO REQUEST FOR ADMISSION NO. 15:

Admitted. Opposer admits that the utility patent application serial number 10/759,659 accurately refers to the utility and patent application the Opposer filed to protect its intellectual property rights to the connection tether feature on Boston Round bottles.

REQUEST FOR ADMISSION NO. 16:

Admit that there are numerous alternative designs for plastic drinking water bottles that are equally efficient as Applicant's Bottle Configuration.

RESPONSE TO REQUEST FOR ADMISSION NO. 16:

Denied, the design of the bottle configuration at issue is particularly optimized from an engineering standpoint and has numerous functional advantages that the applicant wishes to monopolize using the trademark application and claim for trade dress.

REQUEST FOR ADMISSION NO. 17:

Admit that there are numerous alternative designs for each feature of plastic drinking water bottles that are equally efficient as the features in Applicant's Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 17:

Denied, each design element of the bottle configuration at issue is particularly optimized from an engineering standpoint and has a unique functional advantage that the applicant wishes to monopolize using the trademark application and claim for trade dress.

REQUEST FOR ADMISSION NO. 18:

Admit that Applicant's Mark is not the only design available for a plastic drinking water bottle.

RESPONSE TO REQUEST FOR ADMISSION NO. 18:

Admitted. Applicant's mark is not the only variation of the Boston Round design. Other bottle manufacturers, also use modified versions of their Boston Round design bottles as plastic drinking water bottles.

REQUEST FOR ADMISSION NO. 19:

Admit that there are alternative designs for plastic drinking water bottles that are less expensive to manufacture than plastic drinking water bottles bearing Applicant's Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 19:

Denied. Opposer incurred substantial cost to make numerous design modifications after receiving threats from Apogent. Bottle manufacturers, including Applicant, sell less expensive bottles that are variations of the plastic drinking water bottles bearing Applicant's Mark. However, opposer would have saved a substantial amount of money if applicant did not make any trademark claims.

REQUEST FOR ADMISSION NO. 20:

Admit that Opposer may provide plastic water bottles with different configurations that are equally efficient as Applicant's goods despite the registration of Applicant's Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 20:


Denied, Opposer will continue to provide bottles that can be used for any and all applications that a customer chooses to apply, including but not limited to drinking water. Opposer would lose the benefit of each design element of the bottle configuration at issue that is

REQUEST FOR ADMISSION NO. 21:

RESPONSE TO REQUEST FOR ADMISSION NO. 21:

REQUEST FOR ADMISSION NO. 22:

RESPONSE TO REQUEST FOR ADMISSION NO. 22:

<p>2/28/06</p> <p>Date</p> <p>Z:\Client 2. © TM\TTAB\TriForest Ent v. Nalgene 76572253\TriForest's Response to Applicant's Request for Admissions.doc</p>	<p> Clement Cheng, attorney for applicant</p> <p>Law Office of Clement Cheng</p> <p>17220 Newhope St Ste 127</p> <p>Fountain Valley, CA 92708-4283</p> <p>(714) 825-0555</p> <p>(714) 825-0558 fax</p>
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PROOF OF SERVICE

In the matter of App Ser. No. 76/572,253

I, the undersigned, declare I am over the age of 18 and not a party to this action. My business address is at 17220 Newhope St., Suite 127 Fountain Valley, CA 92708.

On February 28, 2006, I served:

TRIFOREST ENTERPRISES, INC.'S RESPONSE TO APPLICANT'S REQUEST FOR ADMISSION

By placing true copies thereof in a seal envelope, addressed as follows to:

Donald L. Frei
Sarah Otte Graber
WOOD, HERRON & EVANS, LLP
2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202-2917
(513) 241-2324

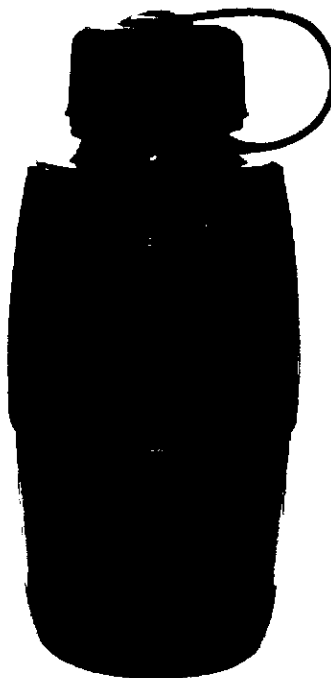
Attorney's for Applicant Nalge Nunc International Corporation

- ☐ BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the offices of the addressee(s).
- ☒ BY MAIL: I am readily familiar with the practice of the office for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice, correspondence is put in the office outgoing mail tray for collection and is deposited in the U.S. Mail that same day in the ordinary course of business. I am aware that, on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one (1) day after the date of deposit for mailing shown on this proof of service.
- ☒ FEDERAL: I declare under penalty of perjury under the laws of the United States that the foregoing is true and that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on February 28, 2006 at Fountain Valley, California.


Z:\Client 2.0\TM\TTTAB\Triforest Ent v. Nalge 76/572253\Triforest's Response to Applicant's Request for Admissions.doc

#5190: The Journeyer 34 oz. Polycarbonate Bottle



- Giant 34 oz. capacity!
- Loop top design
- Matching color lids
- Measurement guide on back

We think you'll take one look at this great polycarbonate bottle and start thinking about how to use it for your next promotion. The Journeyer just invites a dramatic imprint on a beautiful color selection and the contoured design is perfect for comfort. Your lucky recipients will be anxious to hook the bottle onto belt or backpack and hit the trail. With a 34 ounce capacity, they'll be able to trek a long ways without a refill. Through it all, your logo will accompany them, reminding all of your services and generosity.

Item Number	72	144	288	596	1,008
5190	\$5.50	\$5.20	\$5.00	\$4.80	\$4.60

Set-up charge: \$45.00

Running charges: Price includes per piece running charge for one-color imprint on one or both sides

Dimensions: 8 3/4" high by 4" diameter (top) by 3 3/4" diameter (bottom)

Imprint area size: 1 1/8" high by 2 1/2" wide (on each side)

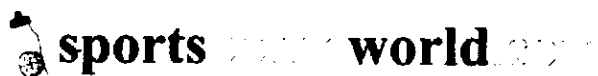
Color choices: Green (G), red (R), blue (B) or smoke (SM) with matching lids

Packaging: Individually polybagged; 24/13 lbs.

Production time: 10 to 15 working days

Rush service: Usually available (contact customer service)

Washing instructions: Hand washing only recommended



2616 Mesilla Street NE, Suite 1, Albuquerque, NM 87110

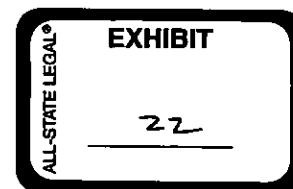
Telephone: (888) 321-3675 (toll free) or (505) 314-2977

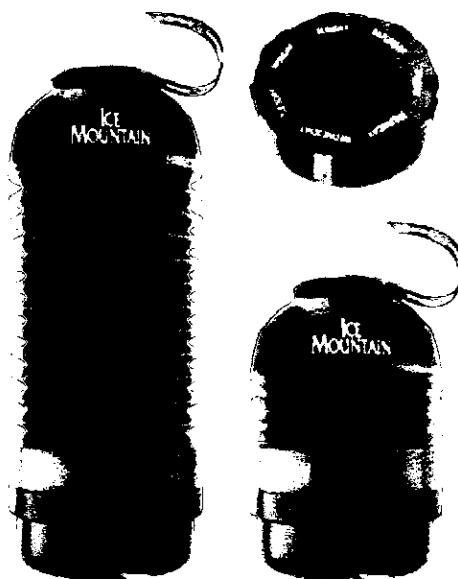
Fax: (800) 809-8386 (toll free fax) or (505) 314-2982

E-mail: Sales@SportsBottleWorld.com

© 2000-2006: Sandia Marketing, LLC

TriForest Ent v. Nalgene
Opposition No. 91165809
Serial No. 76/572,253
Applicant Nalge Nunc Int'l Inc Exhibit 22



#5081: The Rx 21 oz. Collapsible Water Bottle

- Collapsible!
- Holds a 7-day medication supply
- A terrific traveling companion

Here's a neat traveling companion ... a nifty translucent collapsible water bottle. Great for storage purposes on trips, but it also has another feature which is not so readily apparent. Discreetly attached to the base of this bottle is a seven-day pillbox! Simply put in a supply of medication, pack the bottle in a suitcase and be off! Once on vacation, one only has to expand the bottle and add water. The recipients of this thoughtful gift will truly be appreciative. And more than likely they will be toting your advertising all over the country and even the world with them. A great reminder on a daily basis of your services!

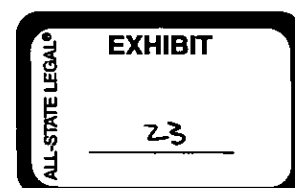
Item Number	120	240	540	1,020	2,520
5081	\$5.75	\$5.50	\$5.25	\$5.00	\$4.75

- Set-up charge:** \$40.00
- Running charges:** Price includes one-color, one-location imprint (multiple color imprint not available)
- Dimensions:** 8 1/4" by 3" diameter
- Imprint area size:** 2" wide by 9/16" high
- Color choices:** Translucent red (TrR) or blue (TrB)
- Packaging:** Gift box; 60/24 lbs.
- Production time:** 10 to 12 working days
- Rush service:** Usually available (contact customer service)
- Washing instructions:** Hand washing only recommended



2616 Mesilla Street NE, Suite 1, Albuquerque, NM 87110
 Telephone: (888) 321-3675 (toll free) or (505) 314-2977
 Fax: (800) 809-8386 (toll free fax) or (505) 314-2982
 E-mail: Sales@SportsBottleWorld.com
 © 2000-2006: Sandia Marketing, LLC

TriForest Ent v. Nalgene
 Opposition No. 91165809
 Serial No. 76/572,253
 Applicant Nalge Nunc Int'l Inc Exhibit 23



#5196: The Outfitter 24 oz. Polycarbonate Sports Bottle



- Unique sipper top
- Contoured sides
- Beautiful translucent colors

Fit your hands around this neat polycarbonate bottle! Its great contour shape will complete any outfit anywhere! Whether you're working out, or working in the great outdoors or getting fit on the nearest or farthest trails, the Outfitter 24 ounce polycarbonate bottle is perhaps the right choice. Just unscrew the lid to reveal the uniquely designed sipper top. Use the tethered lid to secure the bottle to a belt, backpack or bag and off you go! It will hold up to the toughest treatment and still proclaim your company's virtues. It's a winner at a great price!

Item Number	150	250	500	1,000	2,500
5196	\$3.25	\$3.05	\$2.95	\$2.85	\$2.75

Set-up charge: \$45.00 per color

Running charges: Price includes one-color, one-location imprint; each additional color add \$.25 per sports bottle

Dimensions: 8 1/2" high by 3" diameter

Imprint area size: 1 3/4" diameter

Color choices: Blue (B), red (R) or clear (CL)

Packaging: Individually polybagged; 48/22 lbs.

Production time: 10 to 15 working days

Rush service: Usually available (contact customer service)

Washing instructions: Hand washing only recommended



sportsbottleworld.com

2616 Mesilla Street NE, Suite 1, Albuquerque, NM 87110

Telephone: (888) 321-3675 (toll free) or (505) 314-2977

Fax: (800) 809-8386 (toll free fax) or (505) 314-2982

E-mail: Sales@SportsBottleWorld.com

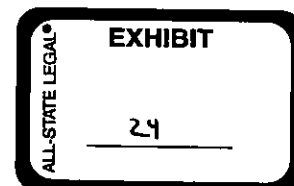
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TriForest Ent v. Nalgene

Opposition No. 91165809

Serial No. 76/572,253

Applicant Nalgene Nunc Int'l Inc Exhibit 24



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application Serial No. 76/572,253
TTAB Opposition 91165809
For Plastic water bottle, sold empty, in IC 21
Published in the Official Gazette on (Date) 3/18/2005

TRIFOREST ENTERPRISES INCORPORATED
v.
NALGE NUNC INTERNATIONAL CORPORATION

**DECLARATION OF STEVE LIN IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT**

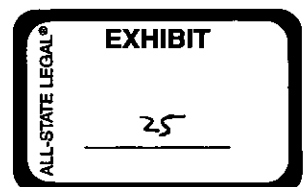
Mail Stop TTAB
Assistant Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Opposer:
TriForest Enterprises, Inc.
17 Musick
Irvine, CA 92618

Applicant:
Nalge Nunc International Corporation a Delaware Corp.
75 Panorama Creek Drive
Rochester NEW YORK 14602-0365

My Name is Steve Lin, President of TriForest Enterprises, Inc. (hereafter "TriForest"). I have personal knowledge of the day-to-day operations of the company. I instructed my attorney to file a motion for summary judgment against Nalge Nunc International Corporation a Delaware Corp., (hereafter "NNI") pursuant to Fed. R. Civ. P. 56. I believe basic common sense shows that the asserted NNI trade dress is comprised of functional and commonplace features and therefore not registerable.

TriForest Enterprises, Inc. and NNI are bottle selling competitors. NNI sent cease and desist letters to TriForest and TriForest dealers prior to filing the Trade Dress Application on



narrow mouth bottle, confusing the issue with its wide mouth registration implying common law trademark rights on narrow mouth bottles based on it receiving trademark registration #:2755757 on its wide mouth bottle TriForest has a right to sell all its designs of bottles because they are functional and commonplace.

TriForest did not try to copy any ornamental features of the NNI bottle, but emulated the functional aspects of the generic boston round bottles. Triforest prides itself on being able to make high-quality products of equal, if not better quality than all its competitors.

TriForest developed its bottle for universal use and with specialized applications including withstanding temperatures of (121°C) steam sterilization, improved visualization of contents, easier to handle, simplicity, automation friendly for labeling, filling, and visual inspection, storage of culture media, inert fluids, and as a general beverage/water container. Based on the need in the market and the application, the bottles were by the virtue of their design and the raw material used, shatter proof, safe, shrapnel free, able to withstand accidental falls of 5 meters or higher without spilling the content, and by enlarge safer for carrying hazardous, toxic contents that otherwise would be harmful if spilled out by breakage of the bottles. The clear plastic bottle offered several applications that were not exploited earlier by other suppliers. Triforest positioned the bottle as an ideal replacement of lab bottles that are commonly made with glass. Triforest employed the use of inert GE Lexan® Polycarbonate resin as it allowed several properties of glass with clarity and improved safety. The bottle also enabled Triforest to enter several sales channels as the single bottle could satisfy the needs to solve numerous applications, previously only filled by glass, or other plastic bottles.

Triforest is not filing this opposition out of any animosity of NNI, however it is concerned with NNI's monopolistic business practices, and aggressive sales tactics. The old

TriiForest bottle has a different arch angle, cap design, yet due to the shared geneology with all Boston round shaped bottles, has the similiarities found in all Boston Round Bottles despite individual sizes. The photograph, Exhibit 1, is a true and accurate depiction of a side-by-side comparison between the TriForest bottle and the Nalgene bottle. The logo printed on the bottle is the main indicator of source of goods. The depiction of the goods is not disputed, however TriForest denies confusingly similarity of the old bottle with the Nalgene bottle.

The mark-drawing page of NNI's product design, Exhibit 7, is a true and accurate copy of the drawing page. On reading the NNI Mark claims carefully, one can generically assume it describes any boston round bottle of 500 ml and 1000 ml capacity. The same bottle is available as a non water bottle in the lab market, for lab applications, such as the PC media bottles from Nalgene.

The NNI trademark as seen (Exhibit 7) is for the product itself. The drawing page states that it is a, "Plastic water bottle, sold empty, in International Class 21." which would make it a product design. This is a true and accurate statement. The plastic water bottles generally sold in the market are sold empty.

The NNI trademark is functional. Plastic is one of the best materials to make a water bottle. A cylindrical container body minimizes material required while maximizing strength. Laboratory machines for mixing often roll a bottle and would not be able to roll a square bottle. Other laboratory machines are particularly suited for a particular shape of bottle the most common being cylindrical. The relatively narrow container neck also known as a narrow mouth makes it easier to pour from and easier to drink from. The opaque screw cap is cheaper and softer. It would be more difficult to make a transparent cap. The button is the axial connector between the cap and tether. The button allows the tether to rotate about the button and cap. The

button axial connector maintains a low profile to lower bulk, weight and cost. If the tether were directly formed to the screw cap, rotation of the screw cap would move the tether and interfere with a user's hand during cap rotation. The small ring button connection is necessary for rotation with the cap, and the large ring is necessary for connection with the shrink ring. The strap is necessarily visually distinct from the screw cap because they are separate parts. The NNI ratios claimed are common and ordinary and also functional because they provide for optimal plastic usage and strength.

The main body ratios have been ordinary and common for Boston Rounds. Many companies such as Owens-Illinois, and Brockaway Glass have been manufacturing such bottles since early 1960's. The Owens-Illinois website shows the Boston round.

The Bomatic, Inc. website has an illustration of the Boston Round bottle:

www.bomatic.com/Catalog/boston_pvc_18oz.html drawing below

Exhibit 8 is a true and accurate copy of the print out of the Bomatic, Inc. website. I visited the Bomatic, Inc. website personally. The bottle of Bomatic, Inc. hereafter (BMI) has the general proportions of the claimed NNI trademark. The diameter to height ratio is basically the same. The BMI ratio is $3'' \div 6.4'' = .47$ ratio, which would be close to NNI's .4 ratio.

www.mayfairplastics.com/drawings/Boston16a1.gif also shows a Boston Round.

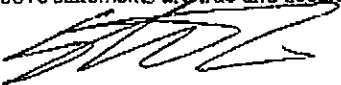
The Boston Round can be a plastic water bottle and can be made transparent. It has a generally cylindrical container body with rounded shoulders interconnecting the upper and lower extremities of a cylindrical sidewall to a relatively narrow container neck. It also has a generally flat, circular container bottom. The Boston round typically includes an opaque screw cap releasably engaged with threads on the upper portion of the neck. Exhibit 9 is a true and accurate copy of the Mayfair Plastics website. I visited the Mayfair Plastics website personally.

of about 0.5 and an overall height neck height ratio of about 0.9. This is within the range of being confusingly similar to the Nalgene alleged trade dress. NNI's 0.4 diameter to height ratio and a 0.8 neck height to total height ratio are standard. The ratios are functionally necessary to fit bottles into standard laboratory machines, packaging machines, and related bottle holders.

A round bottle is automated labeling machine friendly. It allows labels to be adhered by uniform rotation. A simple cylindrical bottle is less expensive to make than bottles with several curves, textures, and angles. Every feature in plastic production is an engineering complication.

Exhibit 2, is a true and accurate copy of Remey US Patent 4,595,130 issued Jun 17, 1986 now expired. Exhibit 2, shows that the button tether connection is functional. Exhibit 3, is a true and accurate copy of T.B. Birnbaum U.S. Patent No. 524,159 Stopper Or Cover For The Mouths Of Bottles. Exhibit 3, shows that the ring tether connection is functional and had been implemented on a Boston round bottle over 100 years ago. Exhibit 4, is a true and accurate copy of US Patent 4,526,289 to Schiemann and shows that a threaded cap connection with button top and ring bottom tether connection is functional.

I declare under penalty of perjury under the laws of the United States of America that the above statements are true and accurate to the best of my knowledge.



Steve Lin, President for Triforest

3/30/2006

date

A round bottle is automated labeling machine friendly. It allows labels to be adhered by uniform rotation. A simple cylindrical bottle is less expensive to make than bottles with several curves, textures, and angles. Every feature in plastic production is an engineering complication.

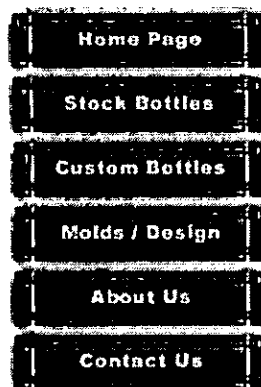
I declare under penalty of perjury under the laws of the United States of America that the above statements are true and accurate to the best of my knowledge.

Steve Lin, President for Triforest

Catalog

Bottles - Jars

Bottles



Capacity

8oz	Soft Shoulder Neck Finish: 24-410, 24-415; Material: PVC, HDPE	De
12oz	Soft Shoulder Neck Finish: 24-415; Material: HDPE;	De
20oz	Soft Shoulder Neck Finish: 24-415; Material: HDPE	De
16oz	Beveled Neck Finish: 28-415; Material: PVC;	De
18oz	Boston Round Neck Finish: 28-410; Material: HDPE;	De
18oz	Boston Round Neck Finish: 24-410; Material: PVC	De
10oz	Modified Cylinder Round with Label Protection Neck Finish: 24-410	De
15oz	Modified Cylinder Round with Label Protection Neck Finish: 28-410,	De
16oz	Modified Cylinder Round with Label Protection Neck Finish: 28-410,	De
16oz	Modified Cylinder Round Long Neck Neck Finish: 28-400; Material: HDPE;	De
16oz	Modified Cylinder Round with Label Protection Neck Finish: 28-410	De
16oz	Modified Cylinder Round with Label Protection Neck Finish: 53-400	De
20oz	Modified Cylinder Round with Label Protection Neck Finish: 28-400	De
32oz	Modified Cylinder Round with Label Protection (short)	De
32oz	Modified Cylinder Round with Label Protection Neck Finish: 28-410	De
32oz	Modified Cylinder Round Neck Finish: 28-410, 33-415; Material: HDPE	De

Capacity

Description

24oz	Sharp Shoulder Cylinder Neck Finish: 24-410, 28-410, 33-415; ..	De
32oz	Sharp Shoulder Cylinder Neck Finish: 33-415; Material: HDPE	De
8oz	Dairy/Juice Round Neck Finish: 38 stn3; Material: HDPE	De
16oz	Dairy/ Juice Neck Finish: 38-400; Material: HDPE	De
16oz	Dairy/Juice Round Neck Finish: Chem Material: HDPE	De
16oz	Dairy/Juice Round Neck Finish: 38 stn3; Material: HDPE	De
32oz	Dairy/Juice Round Neck Finish: 38 stn3; Packaging: Bulk Corrugation; ...	De
64oz	Juice Decanter Neck Finish: 38-400;	De
32oz	Carafe Neck Finish: 28-400; Material: HDPE; Color	De
4oz	Swirl Neck Finish: 20-400; Material: PVC, PETG	De

Capacity

Description

16oz	F Style Neck Finish: 28-400; Material: HDPE, PVC..	De
32oz	F Style Neck Finish: 33-400; Material: HDPE, PVC	De
64oz	F Style Neck Finish: 28-400, 38-400; Material: PVC	De
64oz	F Style Neck Finish: 33-400, 38-400; Material: HDPE	De
5 QT	F Style Neck Finish: 38-400, 63 mm; Material: HDPE, PVC;	De
10 QT	F Style Neck Finish: 38mm, 63mm; Material: HDPE, PVC	De
32oz	Long Neck Liquor Neck Finish: 28-400; Material: PETE	De
1 LTR	Long Neck Liquor Neck Finish: 28-400; Material: PETE;	De
1.75 LTR	Liquor Bottle Neck Finish: 33 kerr; Material: PETE	De

Capacity

Description

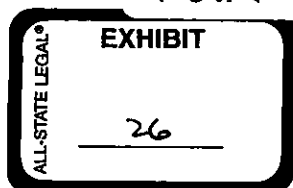
32oz	E-Z Pour Neck Finish: 28-400; Material: PETE; .	De
12oz	Dunbar Oval Neck Finish: 24-410, 28-400; Material: PVC	De
14oz	Baby Oil Bottle Neck Finish: 28-410; Material: ...	De
8oz	Mustard Neck Finish: 38-400; Material: PETE	De
12oz	Liberty Oval Neck Finish: 24-400; Material: PVC	De
15oz	Liberty Oval Neck Finish: 33-400; Material: PVC	De

Capacity

Description

7oz	Trigger Neck Finish: 28-400; Material: PVC	De
12oz	Trigger Neck Finish: 28-400 CRC; Material: PVC	De
20oz	Trigger Neck Finish: 28-400, 28-400 CRC, 28-400 "anti-rotation" nec...	De

TriForest Ent v. Nalgene
Opposition No. 91165809
Serial No. 76/572,253
Applicant Nalge Nunc Int'l Inc Exhibit 26



<u>22oz</u>	Trigger Neck Finish: 28-400; Material: HDPE	<u>D</u>
<u>24oz</u>	Trigger Neck Finish: 28-400 "Child Resistant Closure" (ratchet),	<u>D</u>
<u>32oz</u>	Trigger Neck Finish: 28-400, 28-400 CRC; Material: HDPE, PVC	<u>D</u>
<u>32oz</u>	Teardrop Neck Finish: 33-415; Material: PVC	<u>D</u>
<u>32oz</u>	Mini Bleach Neck Finish: 28-400; Material: HDPE	<u>D</u>
<u>16oz</u>	Beverage - Square Neck Finish: 38 stn3; Material: PETE	<u>D</u>

<u>Capacity</u>	<u>Description</u>	
<u>32oz</u>	Vinegar Neck Finish: 28-410, 28mm "j" cap; Material: HDPE	<u>D</u>
<u>12oz</u>	Water Bottle Neck Finish: 28-400; Material: PETE	<u>D</u>
<u>20oz</u>	Water Bottle Neck Finish: 28mm pco; Material: PETE;	<u>D</u>
<u>0.5 LTR</u>	Water Bottle Neck Finish: 28mm pco; Material: PETE;.	<u>D</u>
<u>1 LTR</u>	Water Bottle (squat style); Neck Finish: 28mm pco;	<u>D</u>
<u>1-1/2 LTR</u>	Water Bottle Neck Finish: 28 pco; Material: PETE	<u>D</u>

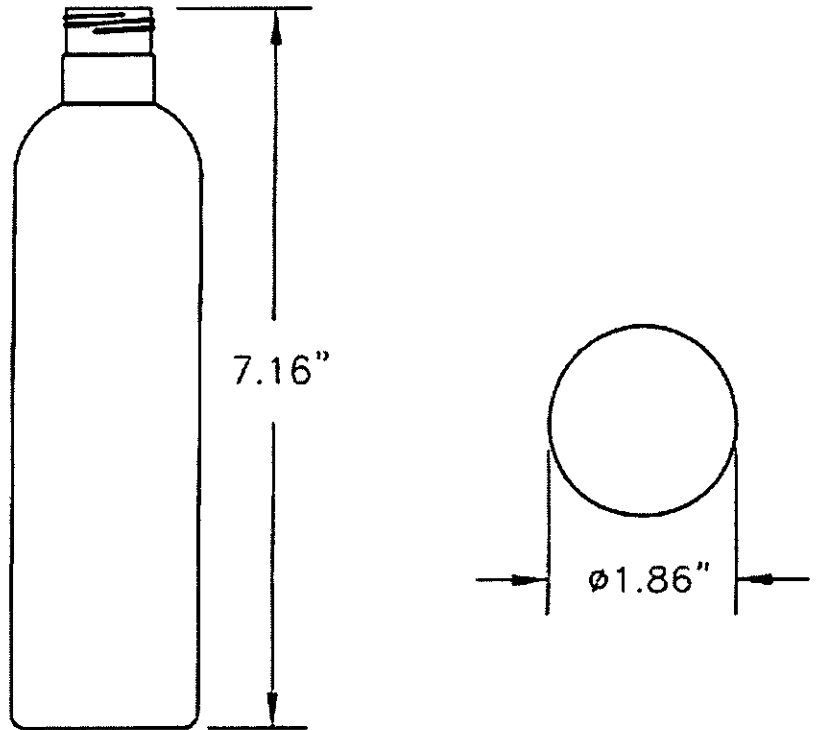
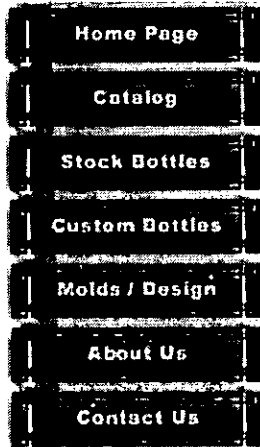
Jars

<u>Capacity</u>	<u>Description</u>	
<u>4oz</u>	Jar Swirl Neck finish: 38-400; Material: PVC, PETG	<u>D</u>
<u>8oz</u>	Jar Neck Finish: 70-400; Material: PVC	<u>D</u>
<u>16oz</u>	Jar Material: PVC;	<u>D</u>
<u>20oz</u>	Jar - Faceted Neck Finish: 83-400; Material: PETG, PVC	<u>D</u>
<u>1gal</u>	Jar Candy Material: PVC	<u>D</u>

Quality that Makes the Difference

Catalog

8oz Soft Shoulder



Product #: 1-100X

Product Name: Soft Shoulder

This product has options. See product details below.

Description: 8 oz. soft shoulder, 24 mm neck finish, est gram wt of 22, bottles are packed in bulk service cartons in poly bags

Pricing Information:

Package Price: QUOTE

Unit Price: QUOTE

Package Type: Box

Units Per Package: 439

Product Details:

Capacity (oz.): 8

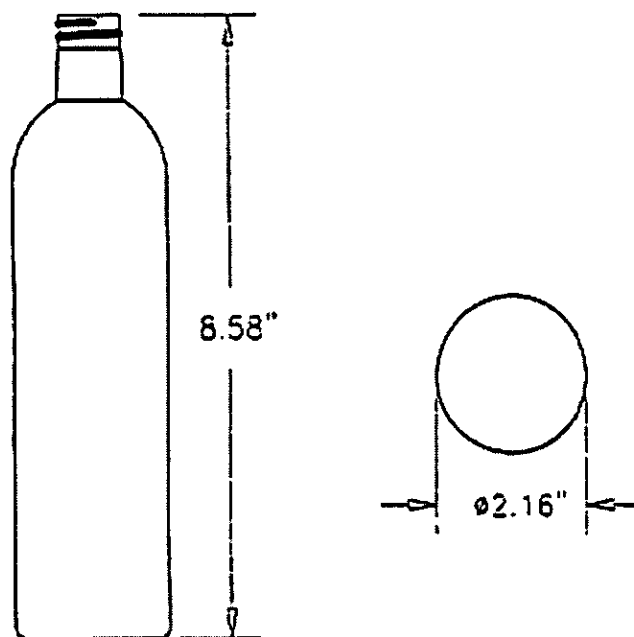
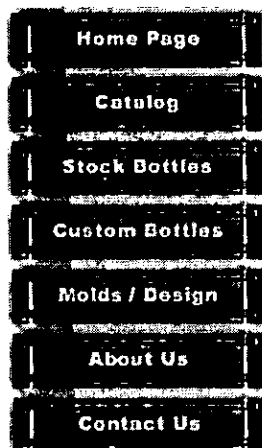
Neck Finish:

Please Select ▼

Quality that Makes the Difference

Catalog

12 oz. Soft Shoulder Cylinder



Product #: 1-104X

Product Name: Soft Shoulder

This product has options. See product details below.

Description: 12 oz. soft shoulder cylinder, 24-415 neck finish, est. gram w 30, bottles are flamed and packed in bulk service cartons.

**Pricing
Information:**

Package Price: QUOTE

Unit Price: QUOTE

Package Type: Box

Units Per 300

Package:

Product Details:

Capacity (oz.) : 12

Neck Finish: 24-415

Material: HDPE

Color:

**Est. Gram
Weight:**

Packaging: Bulk Corrugation

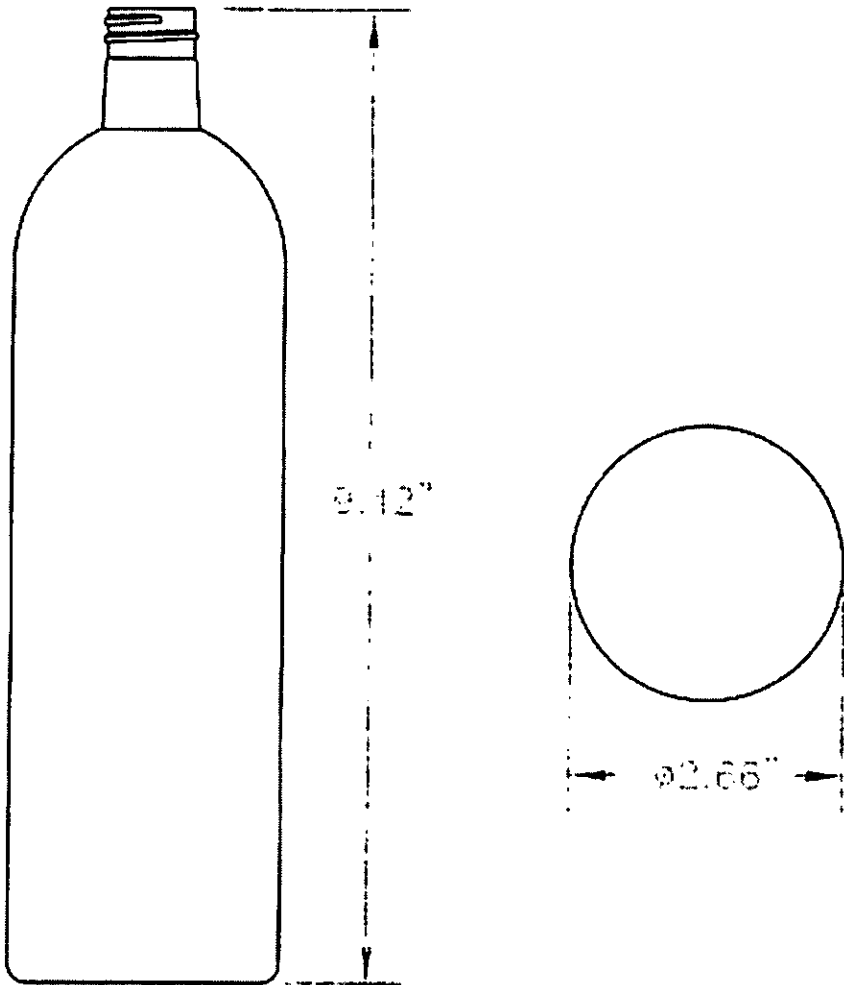
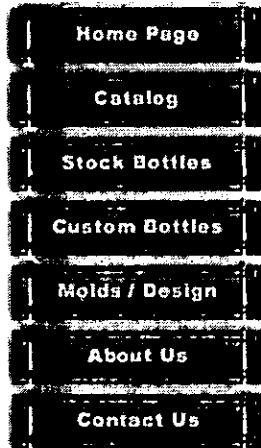
Minimum Order 25000

Quantity:

Quality that Makes the Difference

Catalog

20 oz Soft Shoulder



Product #: 1-1140

Product Name: Soft Shoulder

This product has options. See product details below.

Description: 20 oz soft shoulder, 24-415 neck finish, estimated gram weight 45, bottles are flamed and packed in bulk service cartons in 189 bags

**Pricing
Information:**

Package Price: QUOTE

Unit Price: QUOTE

Package Type: Box

Units Per 189

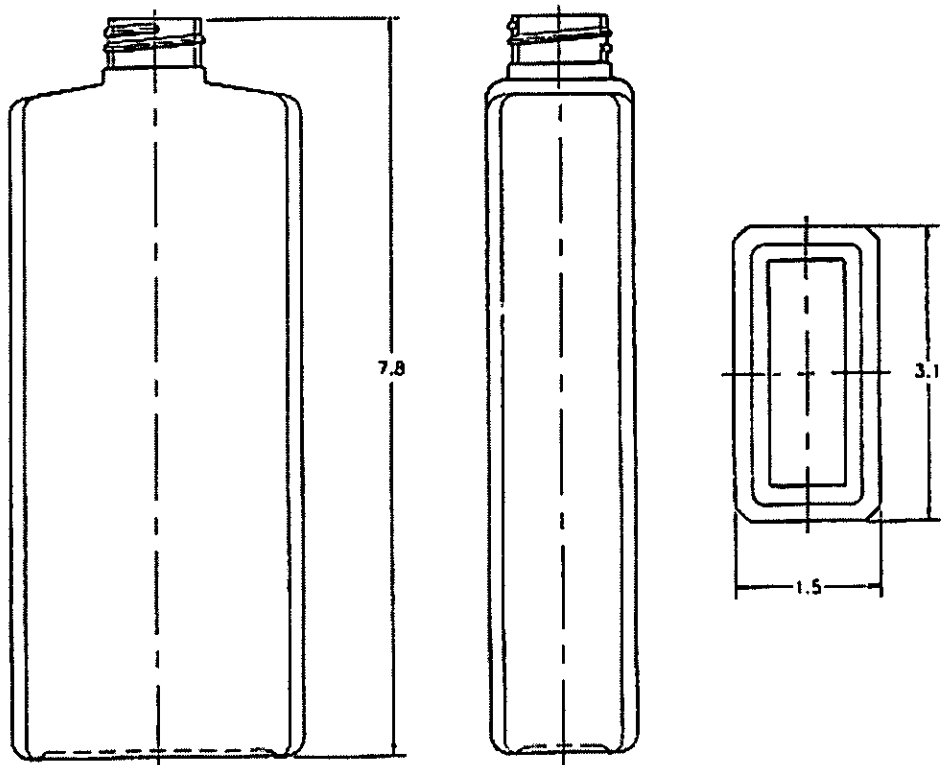
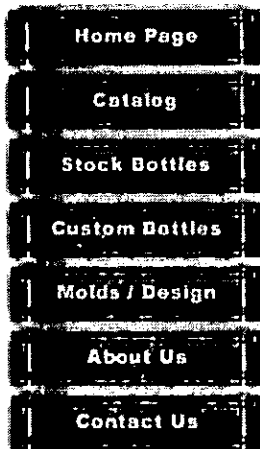
Package:

Product Details:

Quality that Makes the Difference

Catalog

16 oz Beveled



Product #: 1-107X

Product Name: Beveled

This product has options. See product details below.

Description: 16 oz. bevel, 28-415 neck finish, est. gram wt. of 38, bottle are packed in bulk service cartons.

Pricing Information:

Package Price: QUOTE

Unit Price: QUOTE

Package Type: Box

Units Per Package: 261

Product Details:

Capacity (oz.) : 16

Neck Finish: 28-415

Material: PVC

Color:

Est. Gram Weight:

Packaging: Bulk Corrugation

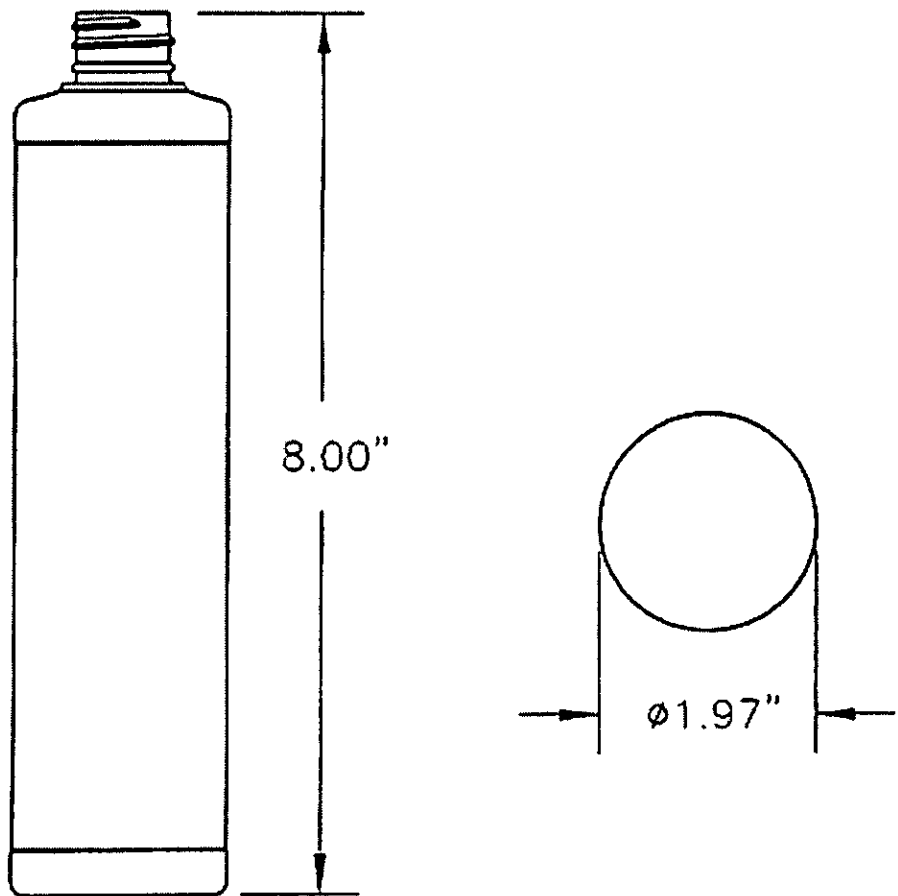
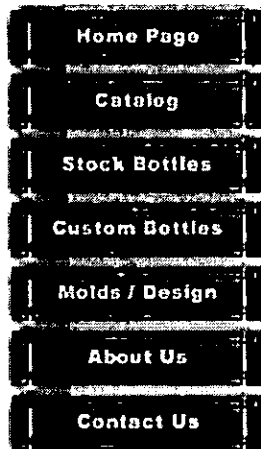
Minimum Order 25000

Quantity:

Quality that Makes the Difference

Catalog

10 oz. Modified Cylinder Round



Product #: 1-10X0

Product Name: Modified Cylinder Round with Label Protection

This product has options. See product details below.

Description: 10 oz. Modified Cylinder Round, w/ label protection, 24-410 n finish, est. gram wt. of 30, bottles are packed in bulk corrugati

Pricing Information:

Package Price: QUOTE

Unit Price: QUOTE

Package Type: box

Units Per 363

Package:

Product Details:

Capacity (oz.) : 10

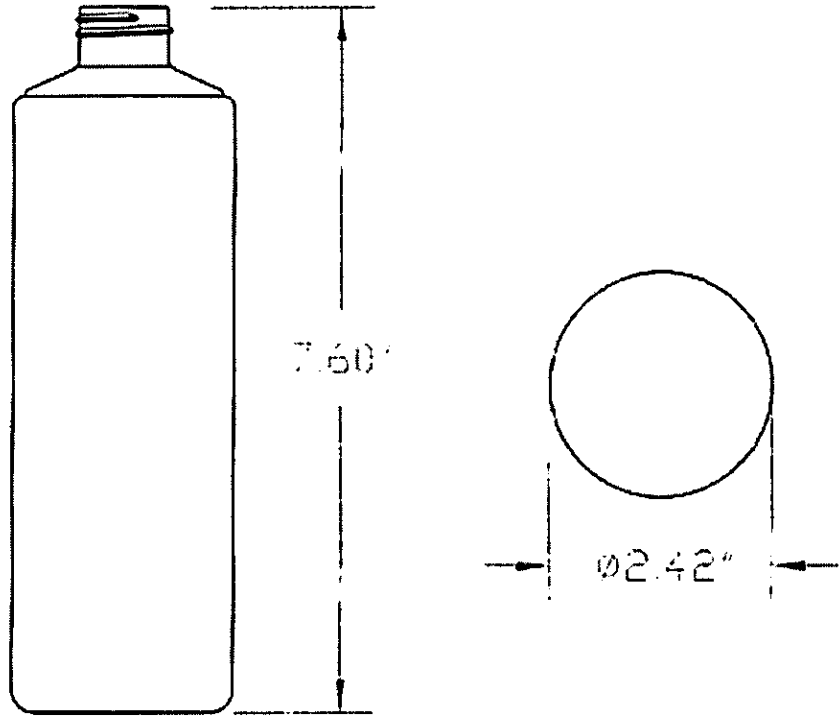
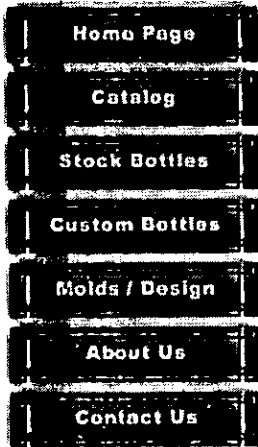
Neck Finish: 24-410

Material:

Quality that Makes the Difference

Catalog

15 oz Modified Cylinder Round



Product #: MCR-15
Product Name: Cylinder

This product has options. See product details below.

Description: 15 oz Modified Cylinder Round, 28-410 neck finish, estimated gram weight of 32, bottles are packed in bulk service cartons

Pricing Information:

Package Price: QUOTE

Unit Price: QUOTE

Package Type: Box

Units Per Package: 230

Product Details:

Capacity (oz.) : 15

Neck Finish: 28-410

Material: HDPE

Color:

Est. Gram Weight:

Packaging: Bulk cartons

Minimum Order Quantity: 25000

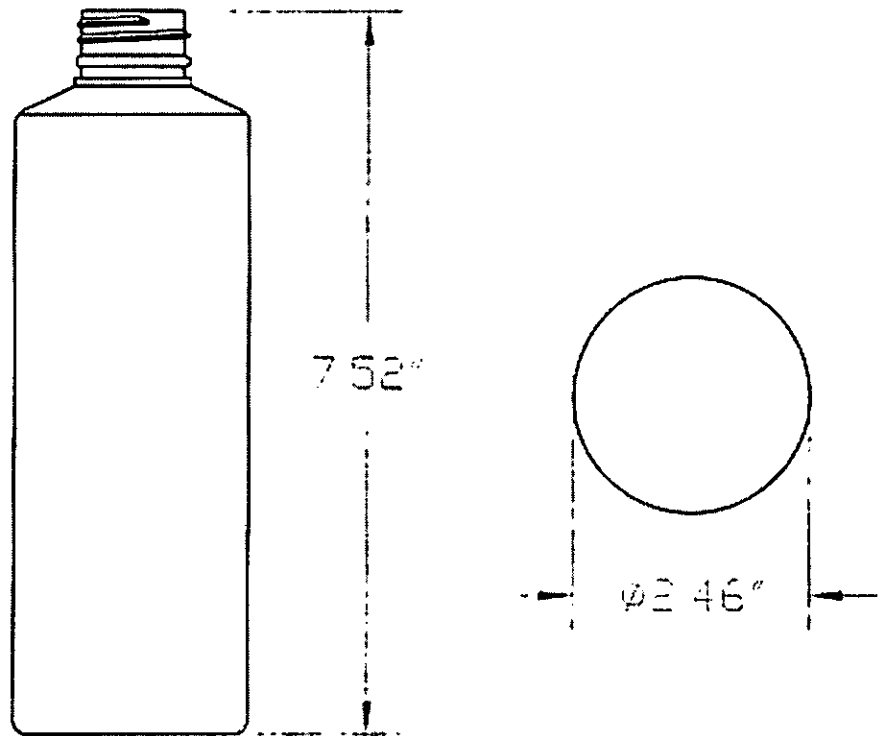
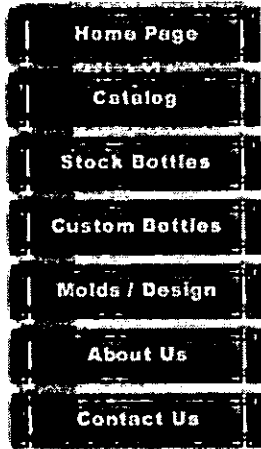
Name

Title

Quality that Makes the Difference

Catalog

16 oz. Modified Cylinder Round



Product #: MCR-16
Product Name: Cylinder

This product has options. See product details below.

Description: 16 oz. Modified Cylinder Round, 28-410 neck finish, bottles are packed in bulk se cartons

Pricing Information:

Package Price: QUOTE

Unit Price: QUOTE

Package Type: Box

Units Per Package: 216

Product Details:

Capacity (oz.) : 16

Neck Finish: 28-410

Material:

Color:

Est. Gram Weight:

Packaging: Bulk cartons

Minimum Order Quantity: 25000

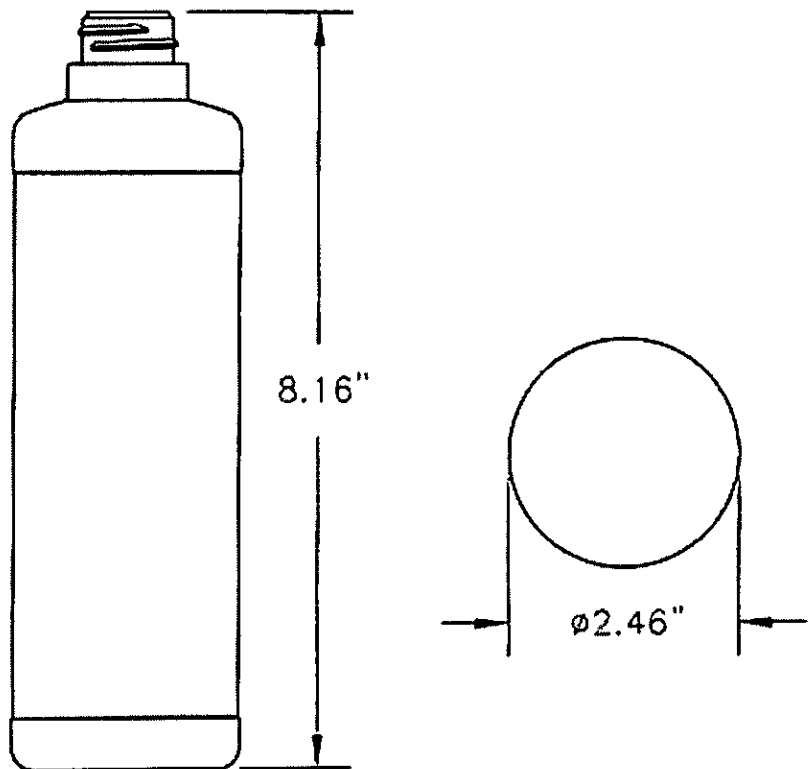
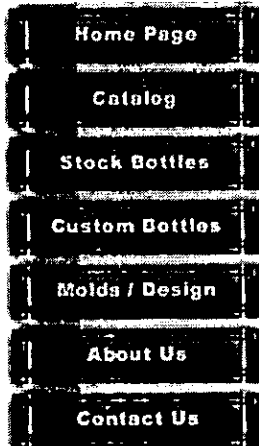
Name

Title

Quality that Makes the Difference

Catalog

16 oz "long neck" Modified Cylinder Round



Product #: 1-108X

Product Name: Modified Cylinder Round

This product has options. See product details below.

Description: 16 oz "long neck" Modified Cylinder Round, with label protection
28-400 neck finish, estimated gram weight of 35, bottles are packed in bulk service cartons

**Pricing
Information:**

Package Price: QUOTE

Unit Price: QUOTE

Package Type: Box

Units Per 243

Package:

Product Details:

Capacity (oz.) : 16

Neck Finish: 28-400

Material: HDPE

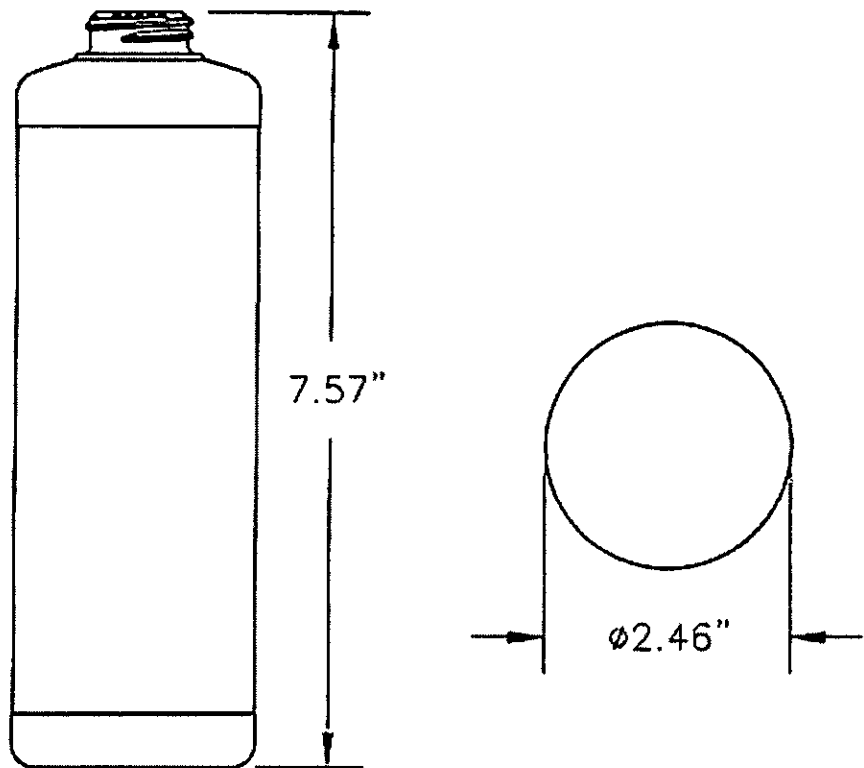
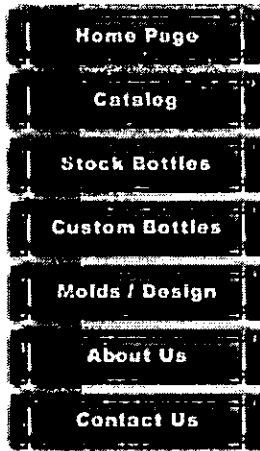
Color:

Est. Gram

Quality that Makes the Difference

Catalog

16 oz. Modified Cylinder Round, w/ label protection



Product #: 1-10XX

Product Name: Modified Cylinder Round with Label Protection

This product has options. See product details below.

Description: 16 oz. Modified Cylinder Round, w/ label protection 28/410

Pricing Information:

Package Price: QUOTE

Unit Price: QUOTE

Package Type: box

Units Per Package: 216

Product Details:

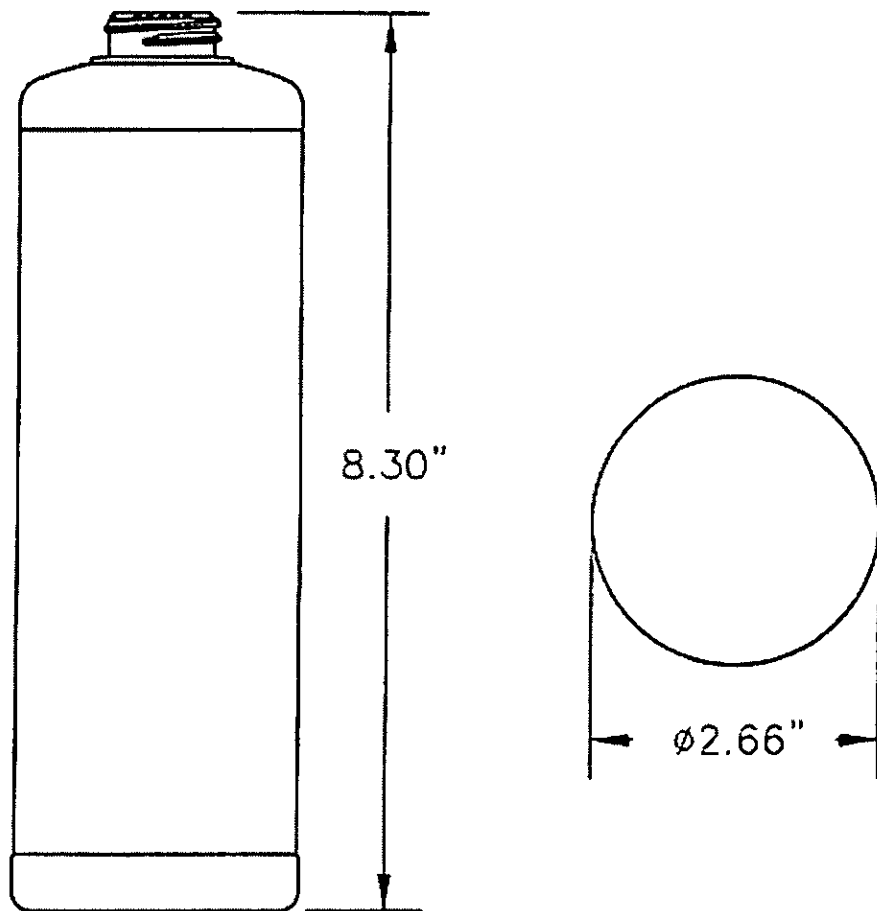
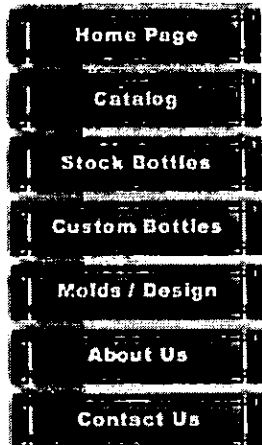
Capacity (oz.): 16

Neck Finish:

Quality that Makes the Difference

Catalog

20 oz Modified Cylinder Round



Product #: MCRLP-20
Product Name: Cylinder

This product has options. See product details below.

Description: 20 oz Modified Cylinder Round with label protection, 28-400 anti-rotation neck finish, estimated gram weight of 46, bottles are packed in bulk service cartons

**Pricing
Information:**

Package Price: QUOTE

Unit Price: QUOTE

Package Type: Box

Units Per 190

Package:

Product Details:

Capacity (oz.) : 20

Neck Finish: 28-400

Material: HDPE

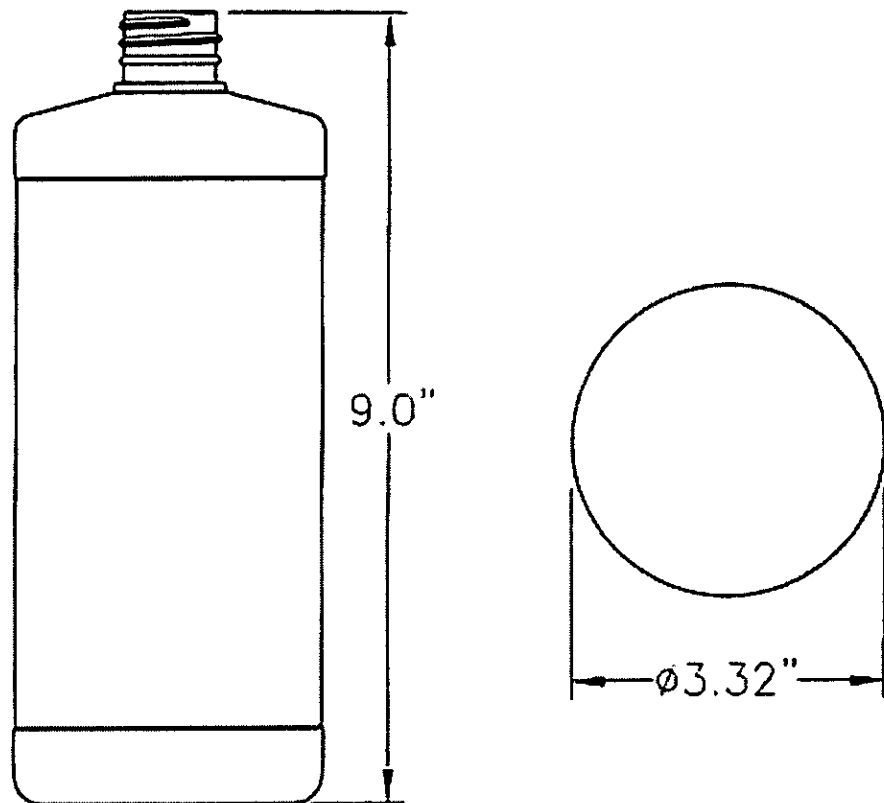
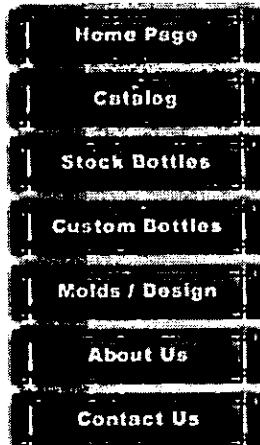
Color:

Est. Gram Weight:

Quality that Makes the Difference

Catalog

32 oz. Modified Cylinder Round



Product #: 1-120X

Product Name: Modified Cylinder Round with Label Protection (short)

This product has options. See product details below.

Description: 32 oz. Modified Cylinder Round, w/ label protection, est. gram wt. of 54, bottles are flat and packed in bulk service cartons in poly bags

**Pricing
Information:**

Package Price: QUOTE

Unit Price: QUOTE

Package Type: Box

Units Per Package: 123

Product Details:

Capacity (oz.) : 32

Neck Finish:

Material: HDPE

Color:

Est. Gram Weight:

Packaging: Bulk Corrugation

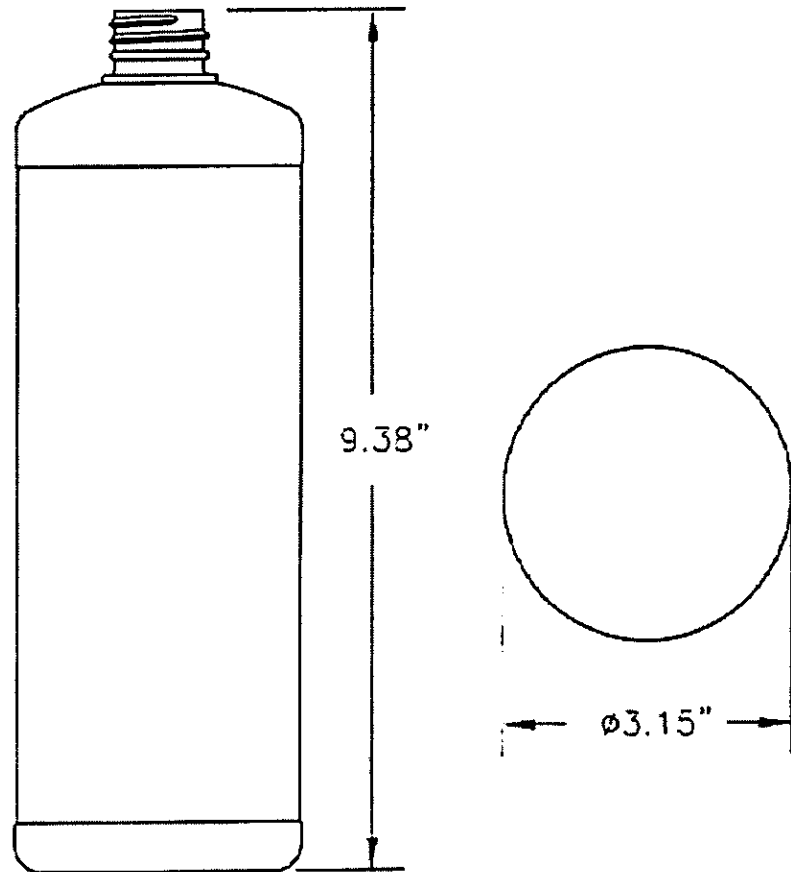
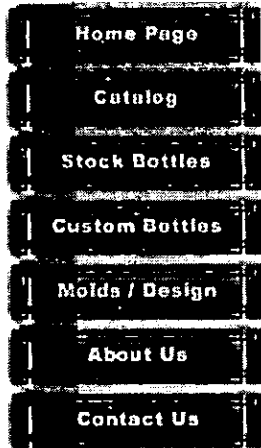
Minimum Order 25000

Quantity:

Quality that Makes the Difference

Catalog

32 oz. Modified Cylinder Round



Product #: 1-12XX

Product Name: Modified Cylinder Round with Label Protection

This product has options. See product details below.

Description: 32 oz. Modified Cylinder Round, w/ label protection

Pricing Information:

Package Price: QUOTE

Unit Price: QUOTE

Package Type: Box

Units Per Package: 92

Product Details:

Capacity (oz.) : 32

Neck Finish:

Material:

Color:

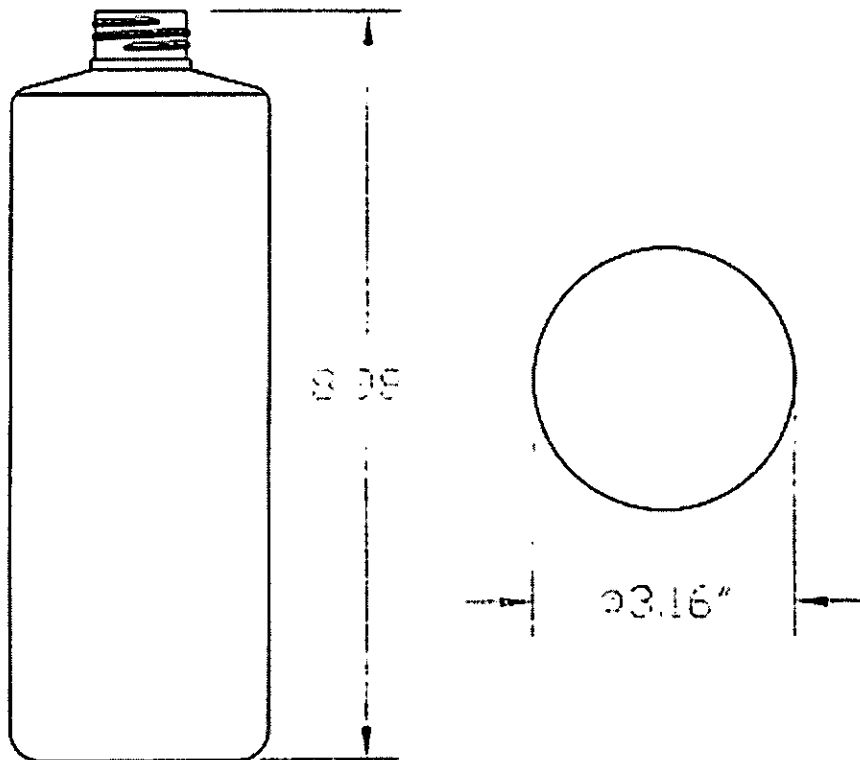
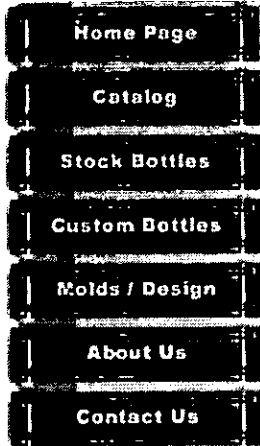
Est. Gram Weight:

Packaging:

Quality that Makes the Difference

Catalog

32 oz. Modified Cylinder Round



Product #: 1-1206
Product Name: Modified Cylinder Round

This product has options. See product details below.

Description: 32 oz. Modified Cylinder Round bottle "Panco Style", bottles are flamed and packed bulk service cartons in poly bags.

Pricing Information:

Package Price: QUOTE

Unit Price: QUOTE

Package Type: Box

Units Per Package: 92

Product Details:

Capacity (oz.) : 32

Neck Finish:

Material: HDPE

Color:

Est. Gram Weight:

Packaging: Bulk Corrugation

Minimum Order Quantity: 25000

Name

STOCK PRODUCT LINE

Rounds

Dairy / Juices

F-Style

Handle Wares / Other

Widemouth Jars

Packer Jars

Environmental Fair Ball

MARKETS SERVED

Ind / Agricultural

Motor Oil / Car Care

Juice & Beverage

Health & Nutrition

Food

Personal Care

Toys & Specialty

Pool Care

Medical Devices

Widemouth Jars

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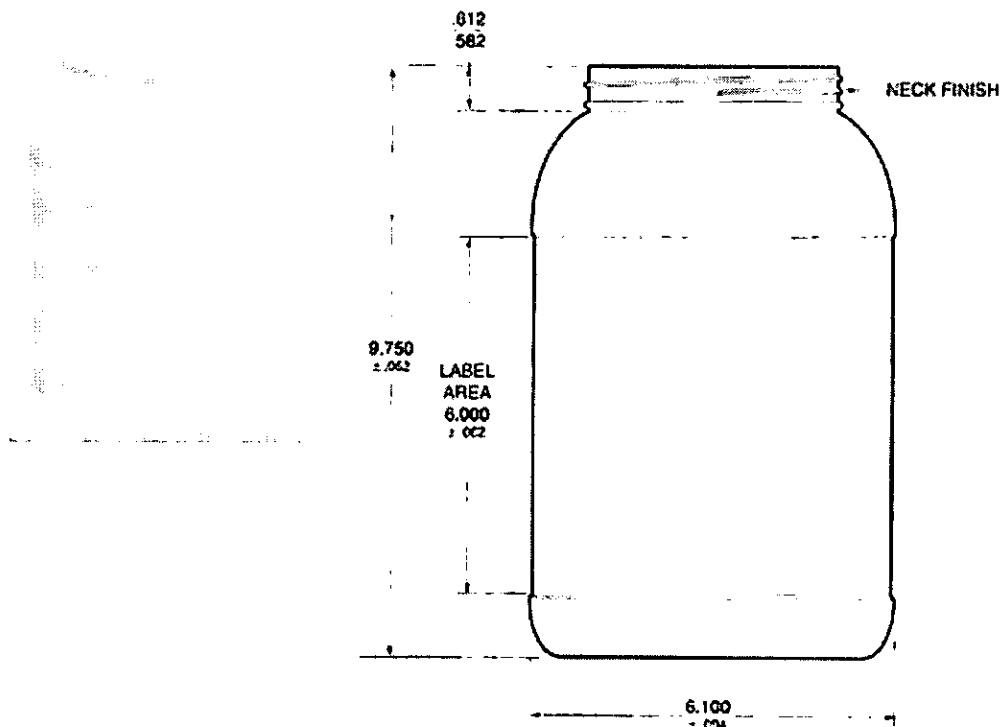
[Request Samples](#)

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128 oz.

110/400

Widemouth Label Protector



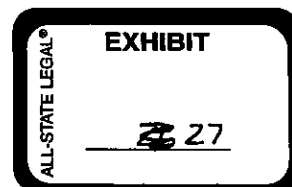
Material: HDPE
Neck Finish: 110/400
Weight: 114 ± 3 grams
Bulk Pack: 48 Bag
Bag Size: 28.5 x 21 x 29.5
Bag Weight: 16 lbs.

S.P.T. Tolerances Apply
Unless Otherwise Noted

**Request
Samples / Information** 

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TriForest Ent v. Nalgene
Opposition No. 91165809
Serial No. 76/572,253
Applicant Nalge Nunc Int'l Inc Exhibit 27



STOCK PRODUCT LINE

Rounds

Dairy / Juice

F-Style

Handle Ware / Other

Widemouth Jars

Packer Jars

Environmental Fair Ball

MARKETS SERVED

Ind / Agricultural

Motor Oil / Car Care

Juice & Beverage

Health & Nutrition

Food

Personal Care

Toys & Specialty

Pool Care

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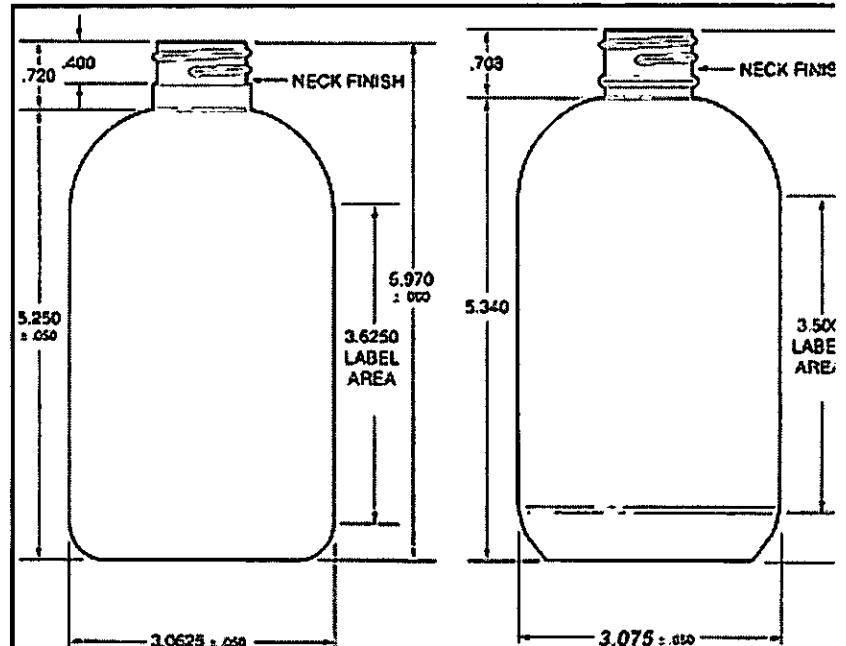
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16 oz. Boston Round



Material: HDPE
Neck Finish: 28/410
Weight: 30 grams
Bulk Pack: 175 Box w/Liner
Box Size: 23 x 15 7/16 x 29 7/8 in.
Box Weight: 15 lbs.

S.P.I. Tolerances /
Unless Otherwise I

**Request
Samples / Information**



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STOCK PRODUCT LINE

Rounds

Dairy / Juices

F-Style

Handle Ware / Other

Widemouth Jars

Packer Jars

Environmental Fair Ball

MARKETS SERVED

Ind / Agricultural

Motor Oil / Car Care

Juice & Beverage

Health & Nutrition

Food

Personal Care

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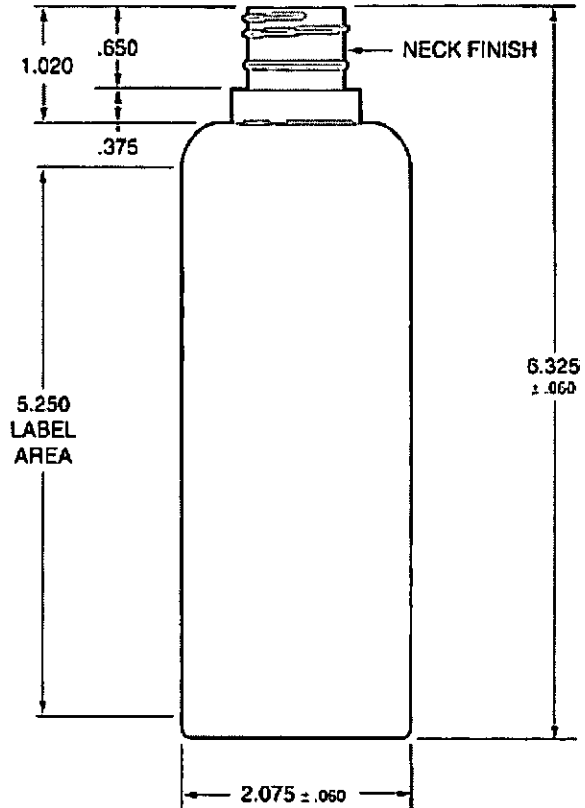
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[Consolidated Container](#)

8 oz. Tall Boston Round



Material: HDPE
Neck Finish: 24/410
Weight: 23 ± 1 gram
Bulk Pack: 300 Box w/Liner
Box Size: 23 x 15 7/16 x 29 7/8 in.
Box Weight: 22 lbs.

S.P.I. Tolerances A
Unless Otherwise P

**Request
Samples / Information**



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STOCK PRODUCT LINE

Rounds

Dairy / Juice

F-Style

Handle Ware / Other

Widemouth Jars

Packer Jars

Environmental Fair Ball

MARKETS SERVED

Ind / Agricultural

Motor Oil / Car Care

Juice & Beverage

Health & Nutrition

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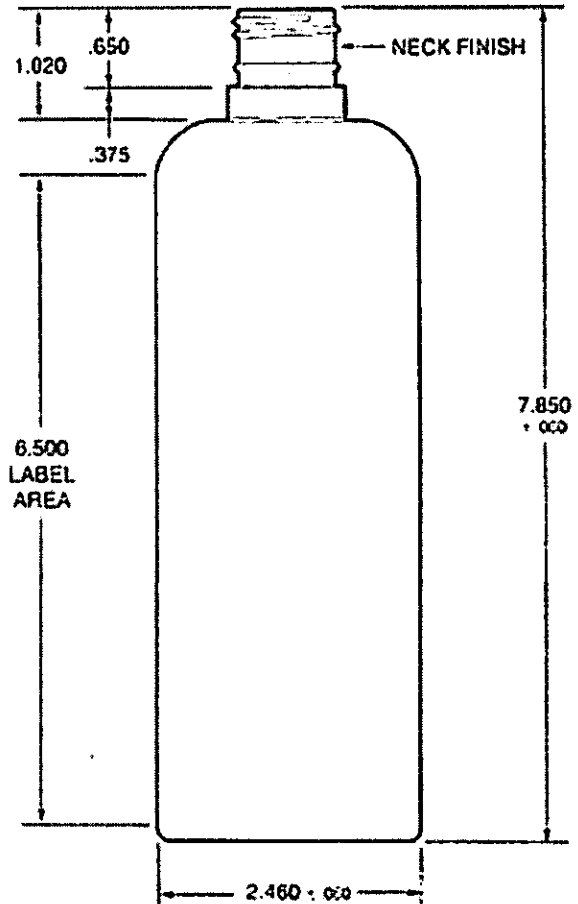
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[Consolidated Container](#)

16 oz. Tall Boston Round



Rounds



Material: HDPE
Neck Finish: 24/410
Weight: 30 ± 1 gram
Bulk Pack: 216 Box
Box Size: 22 9/16 x 15 x 31 9/16

S P1, Tolerances, Unless Otherwise

**Request
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STOCK PRODUCT LINE

Rounds

Dairy / Juice

F-Style

Handle Ware / Other

Widemouth Jars

Packer Jars

Environmental Fair Ball

MARKETS SERVED

Ind / Agricultural

Motor Oil / Car Care

Juice & Beverage

Health & Nutrition

Food

Personal Care

Toys & Specialty

Pool Care

Medical Devices

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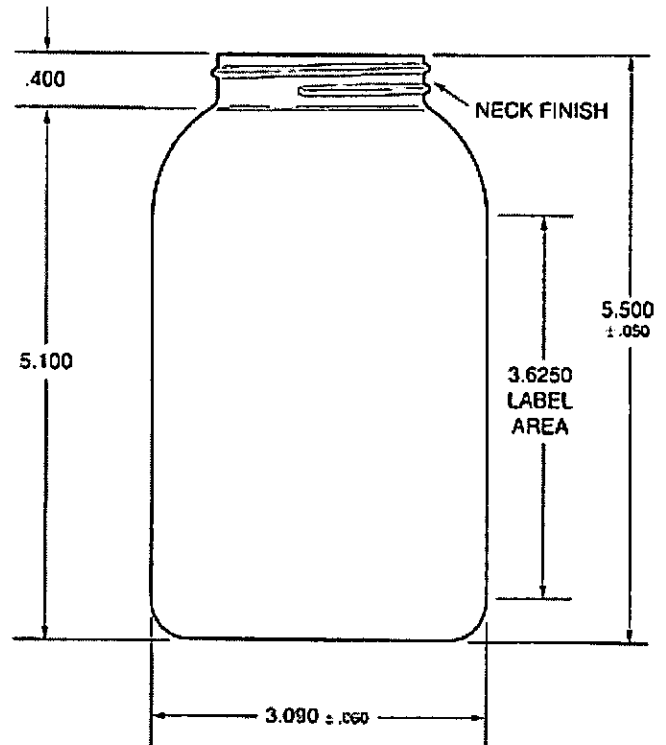
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16 oz. Wide Mouth Packer



Material: HDPE

Neck Finish: 48/400, 53/400 & 38/400

Weight: 30 ± 1 gram

Bulk Pack: 175 Box w/Liner

Box Size: 23 x 15 7/16 x 29 7/8 in.

Box Weight: 15 lbs.

**Request
Samples / Information**



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#5177: The Rx 16 oz. Water Bottle



- Seven-day pill box
- Detaches from bottom
- Great for traveling or daily use
- Terrific imprint area

Just what the doctor ordered, literally! This bottle has a base which detaches from the bottom to reveal a clever seven-day pill box. No one would ever guess just from looking at it. Perfect for traveling or everyday use as a reminder or incentive. The generous imprint area guarantees great expression of your logo or advertising message. And because this is such a handy item, and your customers will be keeping it close by on a daily basis, they will always be reminded of your products or services.

Item Number	120	240	540	1,020	2,520
5177	\$5.50	\$5.25	\$5.00	\$4.75	\$4.50

Set-up charge: \$40.00

Running charges: Price includes one-color, one-location imprint (multiple color imprint not available)

Dimensions: 7 1/8" by 3" diameter

Imprint area size: Each side: 2 1/2" by 2 1/2"
Fullwrap: 8 1/2" by 2 1/2"

Color choices: Translucent red (TrR) or blue (TrB)

Packaging: Gift box; 60/23 lbs.

Production time: 10 to 12 working days

Rush service: Usually available (contact customer service)

Washing instructions: Hand washing only recommended



2616 Mesilla Street NE, Suite 1, Albuquerque, NM 87110

Telephone: (888) 321-3675 (toll free) or (505) 314-2977

Fax: (800) 809-8386 (toll free fax) or (505) 314-2982

E-mail: Sales@SportsBottleWorld.com

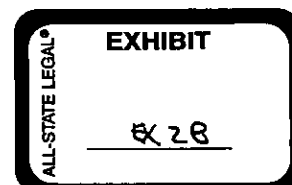
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TriForest Ent v. Nalgene

Opposition No. 91165809

Serial No. 76/572,253

Applicant Nalge Nunc Int'l Inc Exhibit 28





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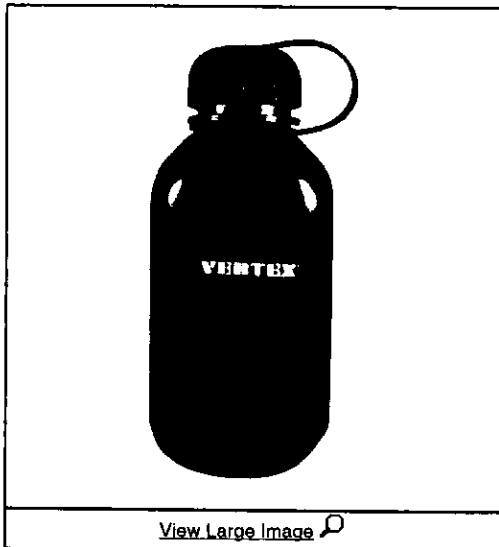
Product Search:

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Lexan Water Bottle 28 oz

Lexan Water Bottle 28 oz

LEX28

[View Large Image](#) [Details](#)[Options](#)[Add to Cart](#)☒ Em Pro☒ Rec Info

-Polycarbonate Canteen Shape
-Tethered Cap in Black only

Product Size:

28 oz.

Product Weight:

48 / 18 lbs

Additional Information:

Imprint Area: 4" H X 1 7/8" W - 1 Side Only

Rush orders: Call factory prior to submitting a Rush Order for specific product availability. A Rush Order is one that does not follow our normal production time schedule.

Qty:	96	144	288	576
Price:	4.19 (Each)	4.09 (Each)	3.99 (Each)	3.89 (Each)

Prices in USD

NOTE: Base prices are listed. See [Product Options](#) for other charges !!

Recently Viewed Products

LEX28 Lexan Water Bottle 28 oz
3.89 - 4.19 (USD) / Min. Qty: 96

[Details](#) | [Order](#) | [Compare](#)

DP-914 21 oz. Collapsible Water Bottle with Pill Box
5.51 - 7.41 (USD) / Min. Qty: 120
 Rush Available

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QUENCHER Quencher Polycarbonate Bottle

4.85 - 9.00 (USD) / Min. Qty: 48
 Rush Available

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Opposition No. 91165809
Serial No. 76/572,253

http://www.bi Applicant Nalge Nunc Int'l Inc Exhibit 29 ?SupplierItemGUID=4920D46E-4DF... 7/17/2006


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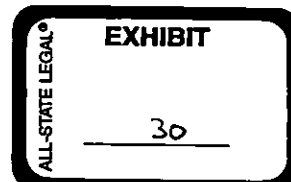
Your Price: \$7.50

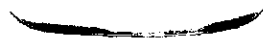
1

Buy

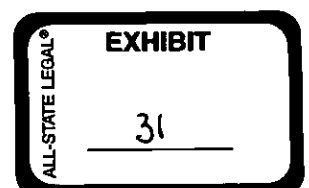
Enjoy your drinks hot or cold in the Kayak Centre's H2Go bottle. This 32 oz. bottle comes in red with the K logo in white. Great as a gift for yourself or your favorite paddler.

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 Applicant Nalge Nunc Int'l Inc Exhibit 30





TriForest Ent v. Nalgene
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Applicant Nalge Nunc Int'l Inc Exhibit 31





TriForest Ent v. Nalgene
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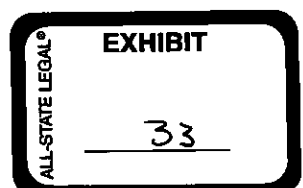


Water Bottle - 32 fluid ounces
by American Alpine Club



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TriForest Ent v. Nalgene
Opposition No. 91165809
Serial No. 76/572,253
Applicant Nalge Nunc Int'l Inc Exhibit 33



LEXAN



TriForest Ent v. Nalgene
Opposition No. 91165809
Serial No. 76/572,253
Applicant Nalge Nunc Int'l Inc Exhibit 34

